THE LIBRARY OF THE UNIVERSITY OF CALIFORNIA LOS ANGELES

THE

Canadian Freeholder:

A

DIALOGUE.

SHEWING,

The Sentiments of the Bulk of the Freeholders of Canada concerning the late Quebeck-Act, with ſome Remarks on the Boſton-Charter Act, and an Attempt to ſhew the great Expediency of immediately Repealing both thoſe Acts of Parliament, as a Ground for a Reconciliation with the United Colonies in America.

LONDON:

Sold by B. WHITE, Horace's Head, Fleet-ſtreet.

M.DCC.LXXVI.

F
1032
M37c
v.1

PREFACE.

THE following Dialogue is ſuppoſed to have paſſed in the province of Quebeck in North-America, in the month of July, 1775, between a ſenſible and ſubſtantial Canadian freeholder, of the Roman-Catholick religion, and an Engliſh Proteſtant gentleman, who had long reſided in that province, ſince it became ſubject to the crown of Great-Britain, but had been abſent from it for five or ſix years preceding the date of this dialogue, which he had ſpent in the neighbouring Engliſh provinces of North America. It is intended to convey to the public a true repreſentation of the ſentiments of the French, or Canadian, inhabitants of that province

vince concerning the late Quebeck-Act, according to the beſt accounts the writer of this dialogue has received of them; and likewiſe to ſuggeſt ſome reaſons for repealing without delay, together with that obnoxious act, the late act of parliament for altering the charter of the Maſſachuſet's Bay. The three firſt ſpeeches of the Engliſhman, with the Frenchman's anſwers to them, are the ſame in ſubſtance with what the writer is aſſured did really paſs in a converſation of this kind in the province of Quebeck between two perſons of the foregoing deſcription. The reſt of the dialogue is the invention of the writer, but agreeable to the accounts which he has received concerning the ſentiments of the Canadians and other Americans.

THE

Canadian Freeholder:

A

DIALOGUE.

ENGLISHMAN.

WELL, my friend, I ſuppoſe that you, and all your countrymen here, are very happy at the great change of the laws and government of this province by the late act of parliament.

FRENCHMAN.

Not at all, Sir, I can aſſure you. And I wonder you ſhould think we can be pleaſed with

with it. It is calculated only to gratify the pride, and ſupply the wants, of ſome of our beggarly nobleſſe, who are now in hopes to get places of power and profit in the province, and to renew their old practices of oppreſſing and domineering over us. For ſuch, you very well know, was their behaviour to us in the time of the French government, and that our emancipation from that ſpecies of tyranny by the eſtabliſhment of the Engliſh laws, was exceedingly agreeable to us, and gave univerſal ſatisfaction. But now all this comfort is at an end, and the gloomy proſpect of the return of our former ſervitude preſents itſelf to our imagination, and fills us with great uneaſineſs. For, by the revival of the French laws, we are apprehenſive that all thoſe oppreſſive powers of the nobleſſe over the common people will be re-eſtabliſhed; and by the clauſe in the act which permits Roman-Catholicks to hold offices of truſt and power, we are induced to ſuſpect that there is an intention in government of beſtowing theſe offices on ſome of our former ſuperiours, from whoſe domination we have been ſo happily free for theſe fifteen years laſt paſt.

ENG-

ENGLISHMAN.

Well, I cannot blame your reaſoning: it is indeed but too well founded. But what ſay you to the clauſe which confirms your religion? Surely that muſt pleaſe you.

FRENCHMAN.

We have no more reaſon to be pleaſed with that clauſe than the other. It is true indeed that we are zealouſly attached to our religion, and ſhould have been very unhappy if we had not been tolerated in the free exerciſe of it. But we *were* ſo tolerated to the utmoſt extent of our wiſhes before the late act of parliament. It was ſtipulated in the capitulation in September 1760, that the free exerciſe of our religion ſhould ſubſiſt intire, ſo that all ranks and conditions of men, both in the towns and countries, might continue to aſſemble in the churches, and to frequent the ſacraments as heretofore, without being moleſted in any manner, directly or indirectly. And this was readily granted to us by our humane conqueror, General Amherſt. But when the Marquis de Vaudreuil, our general, demanded further,

further, that we ſhould be obliged, by the Engliſh government, to pay to our prieſts the tythes, and all the taxes which we were uſed to pay under the government of our former Sovereign, General Amherſt (who did not think it neceſſary to perpetuate our religion by a compulſive proviſion for the prieſts who teach it,) very wiſely refuſed to grant this ſecond requeſt, and made anſwer, *that the obligation of paying the tythes to the prieſts would depend on the king's pleaſure.* In conſequence of this anſwer, we have underſtood that we were not to be obliged by the Engliſh government to pay the prieſts their tythes, until the king ſhould declare it to be his pleaſure that we ſhould pay them; or, in other words, we thought that the legal right of our prieſts to demand them, and ſue for them in a court of juſtice, was ſuſpended till his Majeſty's pleaſure ſhould be declared for revival of it; and no ſuch declaration had been made before the late act of parliament. Theſe points of the capitulation have been ſtrictly obſerved on all hands, ever ſince they were ſettled till the preſent time, that is, for a ſpace of fifteen years. We have enjoyed the free exerciſe of

our

our religion in the higheſt degree poſſible. We have had our prieſts to officiate to us both publickly and privately, in the ſame open and unreſtrained manner as under the French government: and we have aſſembled in our churches and frequented the ſacraments in the ſame manner as heretofore, as the article of the capitulation above-mentioned demanded for us the liberty of doing; and not one of our churches in the whole province has been taken from us for the uſe of the proteſtants. This degree of juſtice and honour in the Engliſh government, with reſpect to the obſervation of this important article of the capitulation, has at once aſtoniſhed and delighted us.—And the other point, concerning the tythes, has been likewiſe conſtantly obſerved; inſomuch that our prieſts have not preſumed to ſue for their tythes in any of the courts of juſtice in the province ever ſince the eſtabliſhment of the civil government, being conſcious that they could not maintain a legal right to them on account of the ſaid anſwer of General Amherſt to the ſecond requeſt above-mentioned. Yet, as we are ſincere and zealous in the belief of our religion, we have uſually

paid them to the prieſts that did the duty of our pariſhes, though we knew we could not be compelled to it: and few complaints have been made againſt us for our neglect of them in this particular; eſpecially where we have been ſatisfied with their conduct, both with reſpect to the decency and regularity of their lives, and to their diligent diſcharge of the duties of the paſtoral office. In theſe caſes we have always throughout the province made a liberal proviſion for the prieſts who adminiſtered to us the offices of our religion: and we have found that the liberty we have had of paying them the tythes, or letting it alone, as we thought fit, has contributed very much to make them behave in ſuch a manner as to deſerve them. This ſituation of things pleaſed us extremely. We enjoyed the exerciſe of our religion in as free and ample a manner as we had done in the time of the French government: and we had the additional advantage of rewarding our prieſts in the manner we thought proper, and in proportion to the merit of their behaviour towards us in the diſcharge of their parochial duties. You cannot ſurely think that the enjoyment of ſuch a

power

power over our prieſts as this was could be diſagreeable to us. Whoever does think ſo is moſt egregiouſly miſtaken. But now your parliament (though, we are told, it conſiſts only of proteſtant members,) has deprived us of this power, and forced us to pay our tythes to our prieſts (whether we are pleaſed with them or not,) to the uttermoſt farthing. And, however ill they may behave amongſt us,—though they ſhould be the moſt vicious fellows in their pariſhes, wholly given up to drunkenneſs and lewdneſs, debauching our wives and daughters, and neglecting the moſt important duties of their office, and behaving to us with the utmoſt contempt and inſolence;--yet, when once it has pleaſed the biſhop to appoint them to be our pariſh prieſts, we muſt, for the future, pay them their tythes and other dues in the ſame manner as if their conduct had intitled them to our entire approbation. Now this is a duty impoſed on us by the late act, which we ſhall certainly perform in theſe caſes with great reluctance.—In ſhort, as the former clauſe, which revives the French laws, ſeems calculated to bring us again under ſervitude to our nobleſſe; ſo this other clauſe,

which revives the legal obligation of paying the prieſts their tythes, ſeems calculated to bring us under ſubjection to our prieſts: and neither of theſe changes in our late eaſy and happy condition is conſidered by us as an advantage. Our nobleſſe, (thoſe hungry cormorants, who are too proud to cultivate their lands, as we do, or to follow any uſeful trade for their ſubſiſtence, and too poor to live upon their fortunes,) may naturally enough rejoice at the late act, as it opens to them a proſpect of getting lucrative places under the government: and our pariſh prieſts may like it for a ſimilar reaſon. But we, the poor people, who are to be forced to pay the prieſts their tythes, and to furniſh the taxes out of which the large ſalaries of the great number of lucrative offices that, we hear, are ſoon to be beſtowed on ſome of our nobleſſe, are to ariſe, (for we cannot ſuppoſe that Great Britain will long continue to bear all theſe unneceſſary burthens on her revenue,) muſt take the liberty of diſliking it, and conſidering it as a juſt ſubject of complaint. And even the very giving theſe places to our nobleſſe, (if they are to be places of any truſt and power, and

not

not mere ſinecure places by way of diſguiſe for penſions,) is an alarming event to us poor Canadians, independently of the taxes which, we fear, will be laid on us to provide the ſalaries of them; becauſe it will again furniſh them with the means of oppreſſing and inſulting us, as they did in the time of the French government;---a treatment we ſhall be little able to bear now after the mild and impartial adminiſtration of juſtice and moderate uſe of power which we have experienced from the Engliſh magiſtrates, by whom we have been governed for theſe laſt fifteen years. If theſe therefore are *the favours* of the Britiſh parliament, we hope they will for the future be very ſparing of their acts of indulgence to us.---I believe you will agree with me that theſe ſentiments are not ill-founded.

ENGLISHMAN.

I do indeed moſt ſincerely: and I partly gueſſed that you might entertain theſe ſentiments; but was deſirous of knowing from your own mouth whether you did or not, and therefore begun our converſation by pretending to ſuppoſe that the late act muſt have been agreeable

agreeable to you. But give me leave to aſk you further, whether the ſentiments you have now expreſſed are thoſe of the generality of the Canadians, or only of a few perſons who have conſidered the ſubject with the ſame attention which you ſeem to have given to it.

FRENCHMAN.

It would be too little to ſay they are the ſentiments of the generality of the Canadians: they are the ſentiments of the whole Canadian people, except only the very few perſons who reap an immediate benefit from the act, that is, the pariſh-prieſts, who are impowered by it to ſue us for their tythes in the courts of juſtice; about five or ſix of our lawyers, who flatter themſelves that the revival of the French law will increaſe their buſineſs and conſequence; and the narrow circle of our poor and proud nobleſſe, who are gaping after the ſalaries of the places which are ſoon to be beſtowed on them, and pleaſing themſelves with the thoughts that they ſhall then have an opportunity of exerciſing authority over us in the ſame manner as they did under the French government. Excepting theſe perſons, (who

may

may amount perhaps to two hundred, or at moſt three hundred, men in the whole province,) I will venture to ſay that all the reſt of the Canadians, who think at all upon the ſubject, entertain the ſame ſentiments as I do.

ENGLISHMAN.

As this is the general way of thinking amongſt the Canadians, pray how comes it to paſs that they did not make it known to the government in England, before the late Quebeck act paſſed? For I dare ſay that act was paſſed with an intention to pleaſe and humour the Canadians, and thereby diſpoſe them to become active inſtruments in the hands of the crown to aſſiſt in the conqueſt of the other rebellious colonies. Indeed there is no other way of accounting for the parliament's paſſing an act of ſo uncommon a nature, and ſo contrary to the moſt fundamental maxims of the Britiſh government.

FRENCHMAN.

I cannot pretend to judge of the political views of the Britiſh miniſtry in cauſing that act

act to be paſſed. But, if they did intend to pleaſe the Canadians by it, as you ſuggeſt, (for of myſelf I ſhould never have ſuſpected them of ſuch an intention,) I ſuppoſe that they muſt have thought that the Canadian people were intirely under the influence of their prieſts and their nobleſſe, and that they followed implicitly wherever the latter led, as ſheep do their bell-weather, and conſequently that, by gratifying the nobleſſe and the prieſts, they ſhould gratify all the reſt of the people. An opinion of this ſort muſt have prevailed among them. But, (as you well know, and as now appears plainly in the general murmurs at this act all over the province,) it is intirely without foundation. The nobleſſe have never had any influence amongſt them at all, but, on the contrary, have been rather looked upon by them as objects of terrour and hatred: and the prieſts have had but a limited degree of influence over them, and only in matters where religion has been thought to be concerned. This was well known to all the Engliſh inhabitants of the province; and therefore we preſumed it muſt, by their means, be known alſo to the

government

government in England. But I ſuppoſe they have liſtened principally to the ſuggeſtions of the Governour, who has been ſo far biaſſed by the perpetual flattery of the biſhop and his clergy and the nobleſſe of the province (who call him their father and protector,) as to conceive them to be of much greater importance than they are, and who has probably repreſented them in that light to the king's miniſters of ſtate, and made them believe that the ſentiments and wiſhes of that ſmall circle of intereſted perſons were thoſe of the whole Canadian people.

As to making a formal petition to the king to continue to us the Engliſh laws in the manner we had enjoyed them before the late act, (which you ſeem to think we ought to have done, and which indeed I ſincerely wiſh we had done,) our reaſons for not doing it were as follows.

In the firſt place, you well know that the Canadians are extremely fearful of offending their governours, and conſequently of taking any ſtep which may expoſe them to their fu-

ture reſentment. This is owing partly to the arbitrary manner in which they were uſed to be commanded in former times, and the diſcretionary power of impriſonment which was exerciſed over them by the intendants of the province. This habit of obedience and terrour has continued amongſt them (though in a leſs degree than formerly,) till almoſt the preſent time, notwithſtanding the great mildneſs of the Engliſh civil government and the total ceſſation of the exerciſe of that arbitrary power of impriſonment. For they did not well know the cauſe of this ceſſation, and could not be ſure that it was not the effect of ſome temporary policy, which would ſoon be laid aſide, or of the humane or cautious tempers of the perſons at the head of the government. They had indeed been told that it was the conſequence of the introduction of the Engliſh laws and form of government: and they, for that reaſon, were greatly delighted with thoſe laws and that form of government. But yet they ſaw this but imperfectly, and therefore had ſtill ſome doubts and apprehenſions in their minds concerning the ſtability of this new ſtate of eaſe and liberty, and

conſequently

conſequently ſome remains of their ancient habits of fearing to offend the officers of government, Ignorance, you know, is often both the parent and nurſe of timidity: and our Canadians, for the moſt part, can neither read nor write: nor have they been accuſtomed, nor indeed have they dared till of late years, to think upon the ſubject of government. It ought not therefore to be matter of wonder that they do not yet think either very freely or very accurately concerning it, and much leſs that they are ſhy of acting with reſpect to it in a manner that they ſuſpect will be offenſive to their ſuperiours. This I take to be one of the reaſons why they did not make ſuch a petition as you mention, to expreſs their deſire that the laws of England might be continued in the province.

A ſecond reaſon for their not making ſuch a petition may alſo be referred to their ignorance. There are ſome parts of the laws of England which, if they were to be put in practice here, would be greatly and juſtly diſagreeable to them. Such is the Engliſh law of inheritance of land by primogeniture;

which, if it were to be immediately introduced into the province ſo as to affect the preſent generation of young men, would certainly cauſe great uneaſineſs and miſery in families; though, if it were to take place only with reſpect to the children of marriages hereafter to be contracted, with a power in the parents to avoid it, if they thought proper, and to retain their former law of inheritance by partition, either by inſerting a clauſe for that purpoſe in their marriage-agreements, or in their laſt wills, or in any deed executed in their life-time, I am inclined to think it would give the Canadians no offence, but rather be well received by them, becauſe they have often obſerved and lamented the many inconveniencies that have reſulted from the ſubdiviſion of ſmall lots of land in conſequence of their preſent law of inheritance by partition. Yet the ſudden introduction of this law of England would be very diſagreeable to them, even though they ſhould be impowered to avoid its operation by deviſing their land in the manner they ſhould think proper by their laſt wills and teſtaments, becauſe, as they can neither write nor read, and are not much

much accuſtomed to make wills, this precaution would probably be often neglected, and the younger children of families, in conſequence of ſuch neglect, would be diſappointed, by the operation of the new law, of the ſhares of their father's eſtate, which they had been bred up in the expectation of under the old one. This therefore is one of thoſe parts of the Engliſh law which would really be diſagreeable to the Canadians. Another part of it that would alſo be diſguſting to them, is the law of tythes. For we are told that, by the law of England, the owners of land are obliged to pay every tenth ſheaf of their corn to the parſon of the pariſh; whereas the tythes paid in this province in the time of the French government was only the twenty-ſixth buſhel of corn ready threſhed out, and made fit to put up in the barn. Now it would be thought highly oppreſſive by the inhabitants of this province, notwithſtanding their ſincere attachment to the Roman-Catholick religion, to be forced to pay tythes to their prieſts at the enormous rate of every tenth ſheaf; ſince, as I ſaid above, they were extremely pleaſed with the liberty allowed

lowed them, ever ſince the capitulation in 1760 till the preſent act, of not paying even their accuſtomed tythe, though ſo much leſs than the Engliſh tythe, unleſs they choſe it. Theſe therefore are two parts of the Engliſh law which, if they were to be practically introduced in the province, would give great offence to the Canadians. And perhaps there may be ſome other parts of that law which I have never heard ſpoken of, or do not at preſent recollect, which might be equally diſguſting to them.

I am aware that you will obſerve upon this occaſion, that theſe are two parts of the law of England that the Engliſh inhabitants of the province have no deſire, or thought, of introducing into it, but that they are willing to have them excepted by name, in the plaineſt manner poſſible, from the general body of the laws of England which they wiſh and hope to ſee eſtabliſhed here, if ſuch an exception of them is deſired by the Canadians:——that, as to the firſt of them, the law of inheritance by primogeniture, they think it would be fooliſh and unjuſt to introduce it ſuddenly,

ſo as to affect the preſent generation of Canadians, and are not ſollicitous to have it introduced even with reſpect to future generations in the manner I have above mentioned, unleſs it be agreeable to the Canadians that it ſhould be ſo introduced;—and that they therefore are willing to have the cuſtoms of Canada upon that head, as well as concerning the dower of widows, and the modes of conveying landed property, and, ſtill more, thoſe concerning the tenure of lands, or the mutual rights and duties of the ſeigniors and their freehold tenants to each other, expreſsly revived and re-eſtabliſhed in as ample and ſatisfactory a manner as the Canadians ſhall deſire; provided only that they ſhall be permitted to diſpoſe of their own landed property in the province by their laſt wills in the manner they ſhall think proper:——and that, as to the ſecond point, the payment of tythes at the rate of the tenth ſheaf of corn, they ſhould conſider it as one of the greateſt and moſt abſurd oppreſſions that could be introduced into the province, their opinion being that the affair of tythes ought to be left intirely voluntary both to the Roman-Catholicks and

and the proteſtants, without ſo much as reviving the legal obligation of paying the leſſer tythe above-mentioned, which was only the twenty-ſixth buſhel of corn threſhed out and made fit to be houſed:----and therefore you will conclude that the Canadians need not have been apprehenſive that theſe parts of the Engliſh law would have been introduced into the province in conſequence of the petitions of the Engliſh inhabitants of it to have that law eſtabliſhed.

Now all this I will allow to be true, as I have heard it often and often from the moſt ſenſible Engliſh merchants in the province with whom I have had an opportunity of converſing upon the ſubject. But what avails its being true, or my knowing it to be ſo, while the bulk of the Canadians are ignorant of it, and liable to be impoſed on in this reſpect by thoſe who are endeavouring to prejudice them againſt the Engliſh law, and in favour of the revival of the French? For theſe are the very parts of the Engliſh law which thoſe perſons have held out to them as bugbears, ſince the paſſing of the late act of parliament,

liament, to prevent their joining with their Engliſh fellow-ſubjects in ſolliciting for the repeal of it; as you may ſee by the peruſal of the letter to the Canadians which was ſigned, "*Le Canadien patriote*," and induſtriouſly circulated through the province in December, 1774, in which both the payment of the tythes at the rate of the tenth ſheaf inſtead of the twenty-ſixth buſhel of corn, and the inheritance of land by primogeniture, to the excluſion of all the younger children now living in the province, and without mentioning even any power in the parents to prevent its operation by their laſt wills, (though that is alſo a part of the law of England,) are held up as the neceſſary and immediate conſequences of the introduction of the laws of England. His words are theſe. "*Aimeriez-vous que vos enfans héritaſſent à l'Angloiſe; tout à l'aîné, rien aux cadets?----Voudriez-vous payer la dixme à dixiéme gerbe, comme en Angleterre?*" Such are the diſingenuous artifices which have been uſed to alarm the poor Canadians with falſe apprehenſions concerning the effects of the introduction of the Engliſh law; and by theſe means they have been brought into a

 ſtate

ſtate of doubt and irreſolution upon the ſubject, from which they were utterly unable to relieve themſelves. For while, from their feelings of the eaſe, ſecurity, and liberty which they have enjoyed for theſe ten years paſt, they were inclined to think favourably of the Engliſh law as the cauſe of thoſe great advantages, they have been made to apprehend ſome bad conſequences from certain parts of it which they have not experienced and are not well acquainted with, and which they are told will be inevitably forced upon them, if the Engliſh laws ſhould be eſtabliſhed in the province, though in truth nobody wiſhes to introduce them. In this ſtate of deluſion they hardly dared to join with the Engliſh in a petition to the king to eſtabliſh the laws of England in the province, though they often declared that they had been extremely happy under them for theſe laſt ten years.----I am ſenſible that here it may be aſked why the Engliſh did not undeceive them upon this ſubject, and make them underſtand that nobody wiſhed to introduce either the Engliſh law of paying tythes at the rate of the tenth ſheaf, or the Engliſh law of inheritance by primogeniture,

primogeniture, or the Engliſh law of dower, or any other part of the Engliſh law relating to landed property, or any other parts of the Engliſh law that the Canadians ſhould have any particular objection to, and that therefore they had no occaſion to be under any uneaſineſs upon that account. To this I anſwer, that, from their being generally ignorant of letters to ſuch a degree as not to be able either to write or read, it was impoſſible to undeceive them compleatly upon this, or any other ſubject, upon which their prieſts, (who were ſettled amongſt them in the ſeveral pariſhes of the province,) ſhould endeavour to miſlead them, as they were known to have done upon this ſubject, it being an undoubted fact that many copies of the letter above-mentioned ſigned "*Le Canadien Patriote*," were writ out by the young ſtudents at the ſeminary, or college of ſecular prieſts, at Quebeck, which, you know, is the principal place of education for our young people who are intended for the church. How could the Engliſh merchants communicate to the whole body of the Canadians their anſwers to theſe private and repeated ſuggeſtions of the prieſts

to the prejudice of the Engliſh law? If they had ſent circular letters through the province, either printed or written, the Canadians in many places could not have read them: and if they could, you know the tedioufneſs and difficulty of making a ſufficient number of copies of any thing in manuſcript for the general information of a whole people; and you know alſo that there is but one printing-preſs in the province, and that that is under the direction of the government. To undeceive the Canadians compleatly upon this ſubject, and convey to them full informations concerning it, was therefore a thing impoſſible; though much had been done towards it by the Engliſh inhabitants of the province in the way of converſation,---perhaps as much as could be done in that way,---and with conſiderable ſucceſs. This deluſion of the poor Canadians concerning certain diſagreeable conſequences which they were falſely told would attend the eſtabliſhment of the Engliſh law, I conſider as a ſecond reaſon of their not joining with the Engliſh inhabitants of the province in their petitions to the king for its continuance.

But

But a third and much ſtronger reaſon for their declining to join in ſuch a petition with their Engliſh fellow-ſubjects, was a falſe alarm that was ſpread amongſt them by their prieſts concerning the ſafety of their religion. They were told that even that would be in danger, if they joined with the Engliſh inhabitants in their petition to the crown,----that in that caſe a proteſtant aſſembly would perhaps be eſtabliſhed, which would inſtantly oppreſs them in that reſpect by introducing and enforcing the penal laws of England againſt the prieſts that ſhould perform maſs and the laymen that ſhould go to church to hear it; all which they aſſured them had hitherto been only ſuſpended by the diſcretion and humanity of the Governour, but would ſoon be carried into execution when the good Governour's power ſhould be controuled by a turbulent aſſembly of proteſtants inveſted with the ſole power of making laws in the province. This was the alarm that had the greateſt weight with them, and prevented them from joining with the Engliſh inhabitants in their petition to the crown for a ſettlement of the province upon the foundation of the Engliſh law. And

in

in the winter 1774, after the late act of parliament had been paſſed and received in the province, when the Engliſh inhabitants were preparing to ſend over petitions to England for the repeal or amendment of it, and the continuance of the Engliſh laws, great numbers of the Canadians were diſpoſed to join with them in making thoſe petitions, and to declare that the petition which had been preſented to the king in the name of the whole Canadian people in the ſpring of the ſame year 1774, and which had unfortunately been made the ground of the late act of parliament, had been made without their conſent, and even without their privity and knowledge. And they even went ſo far upon that occaſion as to deſire ſome of the Engliſh inhabitants to prepare a paper for them to ſign, expreſſing theſe ſentiments: but, when the Engliſh had prepared ſuch a paper, they were afraid to ſign it on account of the alarm above-mentioned relating to their religion, and excuſed themſelves by alledging that they were with-held by their ſuperiours, and commanded not to join the Engliſh in any public repreſentations; for that, if they did, they would infallibly be

deprived

deprived of their religion, but, if they remained quiet, they might depend upon it that the Engliſh laws would not be changed. Upon this falſe alarm concerning their religion in caſe they joined with the Engliſh in their petitions, and the equally falſe aſſurance that the Engliſh laws then obſerved in the province would not be changed if they remained quiet, they reſolved to take the latter courſe, and refuſed to ſign the paper which they had ſome time before deſired the Engliſh to draw up for them.

I hope I have now accounted for the refuſal of our poor Canadians to join with the Engliſh inhabitants of the province in petitioning for a continuance of the Engliſh laws in a manner that is conſiſtent with what I before ſaid of their being perfectly well ſatisfied with them, ſo far as they had had any experience of them, and of their great and general uneaſineſs and apprehenſions of a renewal of their ancient ſubjection to their nobleſſe by the revival of the French law in all civil matters by the late act of parliament.

ENGLISHMAN.

You have indeed accounted for the conduct of your countrymen in this particular in a manner that gives me perfect satisfaction. And by the circumstantial description you have given of the motives of their conduct, and the artifices that have been used to influence them, you have enabled me, as it were, to enter into the whole train and course of their thoughts and reasonings upon the subject almost as well as if I had resided all this while in the province, and conversed with them myself upon it. Indeed I pity them very heartily, as well as the English inhabitants of the province. who certainly had reason given them by the king's proclamation in 1763 to expect better things than to see the French laws revived in all civil matters, and to be governed by a legislative council of so very dependent a constitution as I understand this act of parliament to have established, and this too without any limitation of time, so as to remove from them all prospect of ever being governed by an assembly of the people as they had been promised in that royal proclamation.

FRENCH-

FRENCHMAN.

The Engliſh complain bitterly of this indefinite eſtabliſhment of a legiſlative council in the province: and the more, as they had declared themſelves willing to accept of an open aſſembly conſiſting of proteſtants and Roman-Catholicks indifferently, in caſe his Majeſty ſhould think fit to eſtabliſh an aſſembly of that form; whereby the only objection which ſeemed to lie againſt the practicability of eſtabliſhing an aſſembly in the province, (which was the ſuppoſed danger of admitting papiſts into it,) ſeemed in a great meaſure to be removed. This declaration of theirs, they imagined, took away all pretence for refuſing them an aſſembly in purſuance of the royal promiſe contained in that famous proclamation. For they ſay they can hardly ſuppoſe that the Engliſh parliament can any longer think the profeſſion of the Roman-Catholick religion a juſt objection to a man's being choſen into an aſſembly, ſince they do not make it an objection to his having a ſeat in the legiſlative council, nor even to his having that ſtill higher and more dangerous truſt, a mili-

tary commiſſion. This is what I have hear'd many Engliſhmen declare upon this ſubject: and it appears to me very reaſonable. But we Frenchmen, not having been uſed to aſſemblies, are more ſhocked at the other parts of the act, which revive the French laws, (and with them, as we apprehend, our ancient ſubjection to the nobleſſe,) and the legal obligation to pay the prieſts their tythes.

ENGLISHMAN.

I perceive by your account that the whole body of the people, both Canadians and Engliſh, are ſadly out of humour at this act of parliament. I hope the rebels in the adjoining colonies will not take advantage of this unhappy diſpoſition to invade the country. For, if they ſhould, I doubt much whether they would meet with any reſiſtance, if they offered fair terms to the inhabitants that ſhould ſubmit to them.

FRENCHMAN.

Very little, I believe; at leaſt from the Canadians. And the Engliſh inhabitants alone could not do a great deal againſt a conſiderable

ſiderable force, becauſe of the ſmallneſs of their number. And almoſt all the troops have been lately drawn out of the province to reinforce General Gage's army at Boſton. So that I am greatly afraid, if the provincials ſhould ſend an army into the province, that it muſt be over-run by them. But I hope the attempt will not be made.

ENGLISHMAN.

I hope ſo too: or rather I wiſh it may not. For, as the Engliſh Americans all conſider the late Quebeck act as a manifeſt proof of an intention in the government of England to arm the Canadians and ſend a body of them to attack the back ſettlements of New-England and the other rebellious colonies, I am perſuaded the provincials will endeavour to be before-hand with government in this matter, and will make an attempt to invade this province before the Canadians are actually raiſed and embodied; more eſpecially as the province has been drained of almoſt all its troops, and the inhabitants of it, both French and Engliſh, are known to be greatly diſcontented at the late act of parliament, and conſequently

ſequently little inclined to take any active part in the defence of the province againſt them. Indeed we may conclude from their late attack upon the king's forts at Ticonderoga and Crown Point, (which they have taken by ſurprize in a moſt unaccountable manner,) that the provincials have ſuch a deſign, thoſe forts being, as it were, the gates of Canada. And I am told that within theſe few days, ever ſince the beginning of July, the troops they have left in garriſon at thoſe places openly talk of ſpeedily making the attempt.

FRENCHMAN.

If they ſhould invade us, I am almoſt ſure they will meet with no reſiſtance from the Canadians. Nay, I much fear that they would be joined by ſome of them. So ſtrangely have I hear'd ſome of them talk upon the ſubject; and ſo great is their indignation at the late act of parliament.

ENGLISHMAN.

Of the ill effects of the Boſton-charter act nd the Quebeck act on the minds of the Americans.

Indeed I very much fear that that act and the other angry acts againſt America, paſſed in the ſpring of the year 1774, and particularly

larly that which alters the charter of the colony of the Maſſachuſets bay, and which is commonly called the Boſton-charter act, will be the occaſion of our loſing the dominion of all America. For that Boſton-charter act has not only offended almoſt every inhabitant of that populous and powerful colony, but it is conſidered throughout America as a blow to the liberties of all the other provinces, and a leading ſtep towards ſimilar alterations in all the other charters. And the Quebeck-act has alarmed them ſtill more than the Boſton-charter act, by filling them with apprehenſions of two very dreadful evils; the firſt, that the Canadians will be armed and employed againſt them to keep them in a ſlaviſh ſubjection to whatever laws and taxes the Britiſh miniſtry and parliament (which now are obſerved to be very cloſely connected with each other,) ſhall think fit to impoſe upon them; and that the Canadians are for that purpoſe to be encouraged to continue in the popiſh religion, and that, with that view, a legal proviſion is made by the act for the maintenance of the prieſts who are to teach it them, to the end that they may be more readily diſpoſed, in conſequence

conſequence of their religious opinions and their ſuppoſed averſion to proteſtants, to engage in that odious ſervice; the ſecond, that, as the Britiſh parliament has taken upon itſelf to reſcind the king's proclamation of October, 1763, and thereby to revoke his Majeſty's promiſe of granting to the inhabitants of Canada a free government by an aſſembly of the people, and to eſtabliſh in the ſaid province, inſtead of ſuch aſſembly, a legiſlative council conſiſting of a ſmall and a variable number of perſons nominated by the crown, and removeable at its pleaſure;---and this not for a few years only, while ſome inconveniences might be ſuppoſed likely to attend the eſtabliſhment of an aſſembly, but indefinitely, or without any limitation of time;----I ſay, from this proceeding of the Britiſh parliament the Americans conclude that a legiſlative council, of the ſame nature as this which has been eſtabliſhed in Canada, is now become the favourite mode of government with the Britiſh miniſtry and parliament for the dependent dominions of the crown, and conſequently that they would, if they could, and will, as ſoon as they ſhall be able, aboliſh all the

aſſemblies

aſſemblies in the American colonies, and eſtabliſh legiſlative councils in their ſtead. I know for certain that the famous Dr. Benjamin Franklyn, in particular, has declared it to be his opinion that the miniſtry entertain ſuch a deſign. You may eaſily imagine how deeply and generally an apprehenſion of this kind muſt alarm and provoke the inhabitants of the Engliſh colonies in North America.

FRENCHMAN.

It muſt indeed. And I therefore do not at all wonder that the Engliſh Americans ſhould be as much diſpleaſed at this Quebeck-act as we Canadians and the Engliſh ſettled among us, who are the more immediate objects of it. It is equally miſchievous to us all. But, pray, explain to me the nature of that other act, which, I think, you called the Boſton-charter act, and which, you ſay, is almoſt as alarming to the Engliſh colonies in America as the Quebeck-act. And I beg you would do this very fully, as I am but imperfectly acquainted with the conſtitutions of the Engliſh colonies, and the grounds of the diſcontents that have driven them into open rebellion againſt our ſovereign.

ſovereign. I have the more reaſon to expect that you will not be ſparing of your pains on this occaſion, as you muſt allow that I have been very full and explicit in the anſwers I have given to the queſtions you have made to me concerning the ſtate and ſentiments of the inhabitants of this province.

ENGLISHMAN.

You impoſe a very hard and tedious taſk upon me, and to which I feel myſelf to be very unequal; more eſpecially, if you extend your inquiries to all the Engliſh colonies in America. However, I will endeavour to ſatisfy you as well as I can, with reſpect to the colony of the Maſſachuſets bay and the act for altering its charter. For I readily acknowledge you have a right to all the information I can give you.

Of the charter of the province of the Maſſachuſets bay.

You muſt know then that when King James II. had quitted the throne of England, which he had filled for four years in a manner moſt diſgraceful to himſelf and oppreſſive to his people, the inhabitants of the province of the Maſſachuſets bay were without a charter, and

and were governed (as this province, and the province of New York, and ſeveral other provinces in America, now are,) by the king's commiſſion to his governour under the great ſeal of England. They had had a charter ſome little time before, which was of a very popular nature, the election of the governour and council, and of all the other officers of government having been granted by it to the people, (as I have heard,) though in moſt other colonies they have only the election of the aſſembly; ſo that the crown had had little or no controul over them. But this charter had been taken from them a few years before by a proceeding at law, called by the lawyers a *ſcire facias*, which had been inſtituted againſt them at the ſuit of the crown in the latter end of the reign of king Charles II. that is, about five years before the abdication of the ſaid king James and the election of the prince of Orange by the two houſes of parliament to the office of king in his room; which moſt happy and memorable event is uſually called *the Revolution*. What were the merits of this law-ſuit againſt that charter of the people of Boſton, I do not exactly know.

It was alledged againſt them in it, that they had exerciſed ſome powers of government which their charter had not granted to them: and this, and ſome other irregularities in their conduct as a corporate body, were made the grounds of paſſing a judgement againſt them in the court of King's-bench in England, declaring that they had thereby forfeited their right to the ſaid charter, and that it ſhould be taken from them and become from that time utterly void and of no effect. The motives of this proſecution are agreed on all hands to have been bad, it being only one of many meaſures, which were entered into at that time by king Charles II. and his wicked miniſters, to increaſe the power of the crown by depreſſing the liberties of the people. But I believe the proceedings in it might be regular, and the judgement given againſt the charter might be legal; and conſequently that, when king William (that is, the good prince of Orange who had delivered the nation from the tyranny of king James, and had been thereupon elected king in his place by the two houſes of parliament through gratitude for his great ſervices and to defend them againſt

againſt the return of king James,) aſcended the throne, the people of the Maſſachuſets bay had no legal right to reſume the exerciſe of it. They nevertheleſs ſollicited very diligently, and with great eagerneſs, by their agents at king William's court, to have it given back to them. But they did not meet with ſucceſs. The miniſters of ſtate, (though friends to the liberties of the people upon the moderate and rational principles of the Engliſh government, which gives to the people a great ſhare in the legiſlative authority of the ſtate, but reſerves to the crown the whole executive power of it,) did not think it wiſe to renew a charter, when it was legally diſſolved, in which the crown had little or no ſhare even of the executive power of the government reſerved to it, and which they therefore thought was fitter to be the charter of a little trading borough than of a great colony that might one day conſiſt of half a million of inhabitants. They therefore adviſed the king to give them another charter upon a better plan than the former, and fitter to promote the good government of that colony and to preſerve its dependance on the

crown. This advice was followed; another charter was made out upon a new model, in the framing of which the famous Sir John Somers, (who was afterwards Lord Somers and lord chancellor of England, and who was reckoned one of the wiſeſt men and ableſt miniſters of ſtate that was ever known in England) is thought to have been concerned; and it paſſed the great ſeal of England, and was thankfully accepted by the majority of the people of the Maſſachuſets bay, notwithſtanding the attachment of a ſmall party amongſt them to the popular privileges of their old charter. This happened in the year 1692; and ſince that time till the late Boſton-charter act, that charter has been the rule of government in that colony. This charter has uſually been conſidered as the beſt-contrived charter in all America, having a due proportion of power reſerved in it to the crown at the ſame time as a ſufficient degree of weight in the government is beſtowed upon the people for the preſervation of their liberties and properties. And Governour Hutchinſon, in his excellent hiſtory of the Maſſachuſets bay, ſays that it is in many

many reſpects to be preferred to the old charter, and that the people of the Maſſachuſets bay have no deſire to return to the old charter, and do not envy the neighbouring governments of Connecticut and Rhode Iſland, which have retained, and been governed under, their ancient and more popular charters to this day, but that many of the moſt ſenſible men in thoſe colonies would be glad to be under the ſame conſtitution of government that the province of the Maſſachuſets bay has happily enjoyed under their ſecond charter. By this charter the crown has the right of appointing the governour, lieutenant-governour, and ſecretary of the province; and the power of making laws for the province and of impoſing taxes on its inhabitants, is veſted in the governour, a council conſiſting of twenty-eight members, and an aſſembly of the people. The aſſembly is choſen in a very fair and proper manner, the freeholders in every townſhip in the province, that is, in every ſpace of ground of ſix miles ſquare, that is cleared and ſettled, (which is about the ſize of one of the ſeigniories in this province,) having a right to chuſe two

Conſtitution of the aſſembly of the Maſſachuſets bay.

two perſons to repreſent it in the general aſſembly. By this means the aſſembly does not conſiſt of a trifling number of members, (as is the caſe in many of the other colonies, as, for inſtance, in the province of New York, where the aſſembly conſiſts of only twenty-ſeven members,) but is a large and reſpectable body of men, that come from every part of the province, and conſequently are acquainted with the condition, the wants, and the intereſts of every part of it, and who are too numerous to be bribed or inveigled by the governour, or any corrupt party in the government, to betray or neglect the true intereſts of the province from a regard to their own private advantage. I have been told that there have been uſually more than a hundred members of the aſſembly met together of late years when the governour has called a meeting of *the general court* of the province; (for that is the proper name of the whole legiſlature of the province, conſiſting of the governour, council, and aſſembly, by which it is called in the charter;) and they might, if the people choſe it, be increaſed to two hundred, becauſe many of the townſhips, which

which have all a right to ſend two members to the aſſembly, have hitherto ſent only one. And even this number will be increaſed as the cultivation and population of the province ſhall increaſe, becauſe every new townſhip that ſhall hereafter be laid out and ſettled, will have a right of ſending two new members to the aſſembly. I have often thought that this manner of conſtituting an aſſembly would be very fit to be adopted in Canada, whenever his Majeſty ſhall be graciouſly pleaſed to fulfil the promiſe made us in his proclamation of granting us a houſe of aſſembly, and that the beſt aſſembly that could be eſtabliſhed for this province would be one to which every ſeigniory in the province the extent of which is two leagues, or ſix miles, ſquare, (and which conſequently anſwers to a townſhip in the province of the Maſſachuſets bay,) ſhould ſend two members, and every larger ſeigniory more members in proportion to its ſize. And, as there are in this province two diſtinct ſets of land-holders, who are both equally free-holders, or who equally hold their lands to themſelves and their heirs for ever by a known and certain tenure, or upon certain known conditions,

A convenient form of an aſſembly for the province of Quebeck.

conditions, and without any dependance on the will of any other perſon, ſo long as they ſhall perform thoſe conditions; and who conſequently are equally intitled to a ſhare in the government of the province; namely, firſt, the ſeigniors, who hold their lands immediately of the crown by the tenure of fealty and homage, without any quit-rent whatſoever, together with a few other perſons who hold lands alſo immediately of the crown, but by rent-ſervice, and, ſecondly, thoſe who hold lands of the ſeigniors either by fealty and homage (in which caſe the lands they hold are called *arriere-fiefs,)* or by rent-ſervice, or, as you Frenchmen expreſs it, *par cens et rentes*; it ſeems reaſonable to me that one of the two members ſent from every ſeigniory ſhould be choſen by the ſeignior, or, (if there are ſeveral co-ſeigniors or joint owners of the ſeigniory,) by the ſeveral co-ſeigniors who own the ſeigneurial property of it, and the other by the peaſants of the ſeigniory, and the owners of arriere-fiefs in it, who hold their lands of the ſeignior, or co-ſeigniors, of it. And I further think it would be advantageous to the province, that the members

members choſen by the ſeigniors and thoſe choſen by the other freeholders ſhould ſit in different houſes, each of which ſhould have a negative upon the proceedings of the other, as is the caſe with our two houſes of parliament in England. What think you of this plan of an aſſembly for this province? Could it eaſily be eſtabliſhed in the province, and would it anſwer the good purpoſes of an aſſembly? or is it (as I am told ſome people have called it,) a mere viſionary and impracticable whim?

FRENCHMAN.

I ſee no difficulty at all in forming an aſſembly in that manner. On the contrary it ſeems naturally to reſult from the manner in which our lands are held in this province. There are two claſſes of land-holders amongſt us, an upper and a lower. The ſeigniors, and other perſons who hold their lands immediately of the crown, form the upper claſs; and thoſe who hold their lands of the ſeigniors, form the lower claſs. Their intereſts, though not contrary, are diſtinct from each other; which makes it reaſonable that they ſhould

have diſtinct repreſentatives, and that the repreſentatives of the one claſs ſhould have a negative upon the laws propoſed by thoſe of the other, to the end that nothing may be done by the repreſentatives of either claſs that is prejudicial to the rights of the other: and for this purpoſe it is expedient that they ſhould ſit in two ſeparate houſes. And this diviſion of the aſſembly into two houſes would be attended with this further advantage, that all the regulations that would be propoſed in it would be diſcuſſed with more ſolemnity and deliberation, and would be more thoroughly ſifted and examined, before they would be paſſed there and preſented to the governour for his aſſent, and conſequently would be more likely to be purged of every thing that might be pernicious to any intereſt in the province, than if all the members of the aſſembly ſat and voted promiſcuouſly in the ſame houſe. I hope however that care will be taken by his Majeſty and the Britiſh parliament, whenever an aſſembly ſhall be eſtabliſhed in this province, (whether it be in one or two houſes,) that our repreſentatives ſhall be reſtrained from aſſuming to themſelves

Precautions to be uſed to hinder the members of the aſſembly from aſſuming to themſelves any privileges above their fellow-ſubjects by their own votes.

ſelves any privileges, or exemptions from the laws to which the other inhabitants of the province ſhall be ſubject; but that every thing of this kind, which may be neceſſary for their eaſe or dignity, or for the convenient diſcharge of their duty as aſſembly-men, will be ſettled by the act of parliament that ſhall eſtabliſh the aſſembly. And I ſtill more hope that they will be reſtrained from exerciſing, under any pretence how ſpecious ſoever, a coercive power over the reſt of their fellow-ſubjects, or a power of puniſhing them by impriſonment, or otherwiſe, in a ſummary way, for any crimes or offences whatſoever, inſtead of leaving them to be tried in the ordinary courts of criminal juriſdiction in the province. For this would be making us ſlaves to our own repreſentatives, which would appear to us, who have hitherto been governed by the royal authority only, a meaner ſpecies of ſervitude than that we have hitherto been ſubject to. I mention this precaution, becauſe I have been told that ſome of the American aſſemblies have exerciſed ſuch powers of arbitrary impriſonment every now and then over their fellow-ſubjects.

And from exerciſing coercive powers over them.

ENGLISHMAN.

It is true that ſuch a power has ſometimes been exerciſed by ſome of the American aſſemblies. But I believe it has not been done very often; and when it has been done, it has always been diſapproved by all the lovers of liberty in the province where it has happened, and has tended to leſſen the authority and importance of the aſſembly that has acted in this manner rather than to increaſe them. And I have been told that it is one of the king's uſual inſtructions to his governours of his American provinces to prevent their reſpective aſſemblies from aſſuming any ſuch powers; which in truth are branches of the executive power of the ſtate, and conſequently belong only to his Majeſty's royal prerogative. And therefore there is reaſon to hope that, when an act of parliament ſhall be paſſed for eſtabliſhing an aſſembly in this province, his Majeſty's miniſters of ſtate in the two houſes of parliament will take care that a clauſe ſhall be inſerted in it for reſtraining the members of it in the particulars you have mentioned.

FRENCH-

FRENCHMAN.

Neceſſity of aboliſhing the juriſdictions of the ſeigniors in Canada.

There is another particular which I will mention upon this occaſion, becauſe I think it neceſſary to the perfect enjoyment of the benefits that will ariſe to us from a houſe of aſſembly: and that is the abolition of the juriſdictions of the ſeigniors of the province over the tenants of their reſpective ſeigniories. You know that in moſt of the grants of fiefs, or ſeigniories, made by the kings of France in this province there is a clauſe which gives to the grantee, or ſeignior, *Le droit de haute, moyenne, et baſſe juſtice*, or a very extenſive power of judicature over the tenants of their reſpective ſeigniories. It is true indeed that this kind of judicature has never been exerciſed in the province ſince the conqueſt of it by the crown of Great-Britain in 1760. And it is alſo true that very few of the ſeigniors are rich enough to bear the expence that would attend the proper and compleat exerciſe of it; which would require the maintenance of a ſeigneurial judge, a ſeigneurial, or fiſcal, attorney, and the keeping of a priſon in proper repair for the confinement of criminals.

nals. And I know alſo that in the time of the French government the exerciſe of this power was very much checked and controuled by the officers of the crown, more eſpecially with reſpect to the proſecution of capital crimes, and that no criminal could be put to death by the ſentence of one of thoſe ſeigneurial courts, nor even by that of the king's judge of the diſtrict in which the ſeigniory was ſituated, or the offence committed, until it had been confirmed by the ſuperiour council of the province at a meeting of at leaſt ſeven of its members. All theſe things I know very well, and am ſenſible how much they diminiſh the danger of our being oppreſſed by the ſeigniors of the province by means of theſe ſeigneurial juriſdictions. Yet there is ſtill danger enough left of ſuch oppreſſion to alarm us and make us uneaſy: for we are of opinion that even the *baſſe juſtice*, which is only a power of deciding ſmall civil diſputes between the tenants of a ſeigniory, might be uſed to the oppreſſion of the people, though the *haute* and the *moyenne juſtice*, which relate to the puniſhment of crimes, ſhould be ſuppreſſed: and we have no doubt that it would

would be often uſed to ſuch bad purpoſes. We don't therefore like that the ſeigniors ſhould retain even a dormant claim to any part of this power of judicature, which they may, one day or other, think fit to revive and exerciſe, to the terror and oppreſſion of their fellow-ſubjects: but, on the contrary, we are anxiouſly deſirous that the whole of it may be formally ſuppreſſed.

ENGLISHMAN.

I agree with you that theſe powers of judicature, which are granted to the ſeigniors and their heirs and aſſigns for ever in the French king's grants of the ſeigniories of this province, are not very favourable to liberty, nor likely to prove beneficial to the province. But I have ſome doubt whether they can be totally aboliſhed, otherwiſe than with the conſent of the ſeveral ſeigniors who claim them, without a breach of the articles of capitulation in 1760, which I have always thought ought to be ſacredly obſerved. The 37th article of that important inſtrument is in theſe words.

" The

" The lords of manors, the military and " civil officers, the Canadians as well in the " town as in the country, the French ſettled " or trading in the whole extent of the co- " lony of Canada, and all other perſons " whatſoever, ſhall preſerve the intire peace- " able property and poſſeſſion of their goods, " noble and ignoble, moveable and immove- " able, merchandizes, furs, and other effects, " even their ſhips: they ſhall not be touched, " nor the leaſt damage done to them, on any " pretence whatſoever. They ſhall have " liberty to keep, let, and ſell them, as well " to the French as to the Engliſh, to take " away the produce of them in bills of " exchange, furs, ſpecie, or other returns, " whenever they ſhall judge proper to go " to France, paying the freight, as in the " 26th article."

This article was granted by General Amherſt, and conſequently the lords of manors, or ſeigniors, of the province have, by virtue of it, a right to preſerve the peaceable property and poſſeſſion of their noble goods, that is, of their ſeigniories, which are holden of

of the crown by the tenure of fealty and homage, which is reckoned a noble tenure. The queſtion is only how far this promiſe "*that they ſhall preſerve the peaceable poſſeſſion of their ſeigniories*" extends, and whether it involves in it all the powers of judicature belonging to thoſe ſeigniories, (of which it is probable General Amherſt had not, at the time of granting this capitulation, the ſmalleſt idea,) or only thoſe rights of the ſeigniories which were of a pecuniary nature, or which were productive of pecuniary emoluments to the ſeigniors, that being evidently the principal object, if not the only one, that was then under the conſideration of both the parties to this capitulation. In which of theſe ſenſes do you think we ought to underſtand this article?

FRENCHMAN.

Certainly in the latter ſenſe, which confines the grant of the property and poſſeſſion of the ſeigniories to ſuch things as are attended with pecuniary emoluments to the ſeigniors. General Amherſt certainly never meant by thoſe words to confirm to the ſeigniors of

Canada any part of the powers of government in it, of which theſe powers of judicature make an important part. Nor is it reaſonable, upon any principles of candour or equity that I am acquainted with, to interpret the words in ſo large a manner as to include theſe powers: becauſe, as I apprehend, the moſt reaſonable rule of conſtruction that can be made uſe of to find the ſenſe of any inſtrument that does not expreſsly mention every particular thing which it may be ſuppoſed to comprehend, is, even upon the moſt liberal principles, no more than this, namely, " *That ſuch things, though not expreſſed in the inſtrument, ſhall be preſumed to have been meant to be comprehended in it, and ſhall therefore be conſidered as if they had been expreſsly mentioned in it, as are of the ſame nature with the things that are expreſsly contained in it.*" Now, according to this rule, the powers of judicature, granted to the ſeigniors of this province by the French kings in their deeds of grant of the ſeigniories, ought not to be conſidered as a part of the *goods, noble and ignoble*, of which General Amherſt promiſed to preſerve to them the property and poſſeſſion in the aforeſaid 37th article

article of the capitulation. For, if theſe words were to be taken in their ſtrict and literal ſenſe, they would extend only to corporeal property, ſuch as the freehold lands of the tenants of the ſeigniors, and the demeſne lands of the ſeigniors themſelves, (that is, thoſe lands of the ſeigniors which they have not granted away to their undertenants in perpetuity, but have kept in their own hands, to be cultivated either by themſelves and their ſervants and hired labourers, or by tenants at will, or for years, at certain rents agreed upon between them, and varied from time to time at the pleaſure of the parties,) and cattle, corn, hay, houſe-hold furniture, ſtock in trade, ſilver and gold either in coin or bullion, and bonds, bills of exchange, and promiſſory notes, charters or title-deeds, and deeds of covenant, or other writings containing evidences of rights to money or other things that are worth money; becauſe theſe things, and only theſe things, that is, things of this corporeal nature, are properly *goods*, being things that a man may touch, occupy, and poſſeſs. But incorporeal rights to goods, or to money, ſuch as that right

of the ſeigniors of this province which is called *Le droit de laods et ventes*, (which, as you well know, is a right to a fine from every purchaſer of a piece of freehold land in the ſeigniory, for his admiſſion to the land he has purchaſed, of one twelfth part of the price he has paid for it,) and ſuch as the right of a creditor to be paid the money due to him, whether it be for money lent, or for goods ſold and delivered, or for work done for the debtor, where the creditor has no bonds, or notes of hand, or other written acknowledgements of the debt to produce in proof of it, but can only prove it by the oath of credible witneſſes, are not properly *goods*, becauſe they are not things in poſſeſſion, which a man may occupy and enjoy; but are called by the diſtinct names of *rights and credits*. Nevertheleſs I acknowledge that, by virtue of the equitable rule of conſtruction above-mentioned, all theſe things ought to be conſidered as being comprehended in the aforeſaid article of the capitulation under the ſingle word *goods*, and that that word ought to be conſidered in that place as equivalent to *goods, and rights and credits relating to money or goods*; becauſe rights

and

and credits relating to money or goods are things of the ſame nature with money and goods, and conſequently may well be preſumed to have been comprehended under the word *goods* by the parties to the capitulation. But it does not therefore follow that we ought to extend this word *goods* in this article ſtill further, and include under it the powers of judicature veſted in the ſeigniors of Canada by the grants of their ſeigniories: but we ought rather to ſuppoſe that they were not meant to be comprehended under it; becauſe they are rights of a quite different nature from money, or land, or property of any kind, which were evidently the objects of this article of the capitulation. And therefore I think that our ſeigniors have no pretence to claim theſe powers of judicature by virtue of this article of the capitulation. And I am pretty ſure there is no other article in it that can afford them the leaſt ground for ſuch a claim. On the contrary, there is one article in it which in my opinion makes againſt it, and rather favours the foregoing interpretation of the 37th article, by which the word *goods* is reſtrained to mean only *matters of property*, *whether*

whether in actual poſſeſſion or in right. The article I mean is the 42d, in which our general, the Marquis de Vaudreuil, demanded, "*that the French and Canadians ſhould continue* "*to be governed according to the cuſtom of Paris* "*and the laws and uſages eſtabliſhed for this* "*country*;" to which General Amherſt gave this anſwer, "*Anſwered by the preceding articles,* "*and particularly by the laſt*;" the anſwer to which laſt article is in theſe words, "*They* "*become ſubjects of the king.*" Surely by theſe words we muſt underſtand that the ſettlement of the laws and civil government of this country was eſteemed by General Amherſt to be a matter of ſuch high importance, that he thought it neceſſary to reſerve it for his Majeſty's future and moſt mature deliberation, without promiſing any thing in the capitulation which might reſtrain his Majeſty from exerciſing his royal wiſdom upon it to ſuch extent as he ſhould think proper. And, if this is the true meaning of this anſwer to the 42d article of the capitulation, it will ſerve, as I conceive, to interpret the 37th article of it above-mentioned, and ſhew that, by the promiſe to preſerve to the ſeigniors of the province

province *all their goods, both noble and ignoble, moveable and immoveable,* General Amherſt could not mean, and ought not to be underſtood to have meant, to include the powers of judicature above-mentioned, but only their property of every kind, and ſuch rights as relate to it or are productive of pecuniary emoluments. Nothing can be fairer than thus to interpret one clauſe of an inſtrument, in which the meaning of the writer of it happens to be a little doubtful, by another clauſe of the ſame inſtrument, in which his meaning is perfectly clear.

ENGLISHMAN.

You argue ſtoutly againſt theſe powers of judicature in your ſeigniors: by which I plainly perceive that you are exceedingly averſe to their ever reſuming the exerciſe of them. But, notwithſtanding the reaſons you have alledged to the contrary, I have ſome doubt whether thoſe powers ought not to be conſidered as included under the grant made to the ſeigniors of all their goods, noble and ignoble, moveable and immoveable, in the aforeſaid 37th article of the capitulation; and

and *that* upon a ground that is conſiſtent with your manner of interpreting that article, (which I believe to be a juſt one,) by which you extend the word *goods* only to ſuch incorporeal rights as relate to property, or are productive of pecuniary emoluments. For I have been told that thoſe powers of judicature are attended with ſome pecuniary emoluments. Thus, for example, I have heard ſome of the more learned Canadians ſay that the ſeigniors who have theſe powers of judicature, *haute, moyenne, et baſſe, juſtice*, have a right, in conſequence of theſe powers, if they exerciſe them, to the eſcheats of the lands of their freehold tenants when they die without relations, and without having left their lands away to any body by their laſt wills, and perhaps in ſome other caſes; whereas, if they have no right, by the grants of their ſeigniories, to exerciſe theſe powers of judicature, or if, having ſuch a right, they neglect to exerciſe it, they are not intitled to the lands of their tenants by eſcheat, as aforeſaid, but thoſe lands will in the ſame caſes eſcheat to the king, to whoſe tribunals the tenants of ſuch ſeigniories will have been obliged to

reſort

reſort for juſtice; the eſcheat of the lands being conſidered as a kind of compenſation, or price, to the ſeignior, or the king, for the adminiſtration of juſtice in the ſeigniory. Now, if this is ſo, (as I really believe it is,) you ſee that theſe rights of judicature are, or may be, productive of pecuniary emoluments to the ſeignior by theſe eſcheats of ſome of his tenants lands, and, conſequently, according to your own manner of interpreting the aforeſaid 37th article of the capitulation, ought to be ſuppoſed to be comprehended under it. For, if they are not comprehended under it, but are ſuppoſed to be refuſed and aboliſhed, the ſeigniors will, together with them, loſe the concomitant caſual emoluments that might otherwiſe ariſe to them from theſe eſcheats of their tenants lands.

FRENCHMAN.

I believe it to be true, as you ſay, that the ſeigniors that have the *haute juſtice*, (which is the higheſt of theſe powers of judicature,) have alſo, in conſequence of it, a right to the eſcheats you mention. But this, in my apprehenſion, creates no obligation on the king and parliament of Great-Britain to preſerve to

them theſe rights of judicature, if they think them not beneficial to the province, provided his Majeſty will be graciouſly pleaſed to give theſe ſeigniors this right to theſe eſcheats without the exerciſe of theſe obnoxious powers. For then they will have the contingent emoluments ariſing from theſe powers, for the ſake of which emoluments only it can be pretended that theſe powers ought to be comprehended in the aforeſaid 37th article of the capitulation. This will be a very ſmall ſacrifice for the crown to make for the peace and ſatisfaction of the province, theſe eſcheats being ſo exceedingly rare that the average value of them in the beſt ſeigniory in the province would probably be extreamly trifling, or, rather, below all eſtimation. This, therefore, is an eaſy way of getting rid of this pretence for keeping up theſe ſeigneurial juriſdictions.

ENGLISHMAN.

I really think, that would be a very proper meaſure in the crown, and would, as you obſerve, take away all pretence for complaining that the ſuppreſſion of theſe juriſdictions would be inconſiſtent with that 37th article of the capitulation.

capitulation. And, if there are any other pecuniary emoluments attending the exercise of these jurisdictions under the restrictions observed in the time of the French government, (for to no other exercise of them can the seigniors have the least pretence upon any ground,) it would, I doubt not, be very easy to find some manner of making the seigniors a pecuniary compensation for them, which should, with little or no expence to the government, greatly over-balance all the lawful emoluments arising from the exercise of those jurisdictions. I have two methods of doing this at present in my mind: but it is not worth while to trouble you with the mention of them, because I am inclined to think that these seigneurial jurisdictions are attended with no other pecuniary emoluments than the right to those casual escheats that have been already spoken of. And therefore, I now see no difficulty arising from the aforesaid 37th article of the capitulation in abolishing those jurisdictions, if the exercise of them is likely to be prejudicial to the province, or is likely to be thought so by the majority of its inhabitants: for all governments ought certainly to be carried on in a manner that is agreeable to the people.

FRENCHMAN.

That maxim is both a juſt and a wiſe one. It is juſt, becauſe all governments are inſtituted for the benefit and happineſs of the people governed; and it is wiſe, becauſe the obſervation of it tends to preſerve peace and harmony in the ſtate, and a chearful obedience to the rulers of it. And in purſuance of this maxim I will venture to ſay, that it is highly expedient that theſe ſeigneurial juriſdictions ſhould be formally ſuppreſſed. For, I muſt repeat to you what I ſaid before, that the very poſſibility that our ſeigniors may one day reſume the exerciſe of thoſe powers of judicature is alarming and diſagreeable to us. And certainly, if they were to reſume them, and an aſſembly of the people was to be eſtabliſhed in the province, whether of the form you have juſt now ſuggeſted, and which ſeems the beſt ſuited to this province, or of any other form whatſoever, the exerciſe of theſe powers of judicature would give the ſeigniors ſo great an influence over the freehold tenants of their reſpective ſeigniories that they would hardly dare to give their votes freely, and according

to

to their real ſentiments, where they happened to be of a different opinion from the ſeigniors upon any ſubject in which the latter took a zealous part. So that the ſuppreſſion of theſe juriſdictions is a neceſſary preparatory circumſtance to our enjoyment of the benefits of an aſſembly of the people: and I am ſure the whole body of the freeholders of the province will eſteem it ſo.

ENGLISHMAN.

If they all think ſo, that is enough for me; and, in compliance with their wiſhes, even though I had not agreed with them in opinion concerning the dangers they apprehend from theſe powers of judicature, I ſhould wiſh to ſee them aboliſhed. I therefore join with you in hoping they will be ſo: only I hope that, when they are, the obligations on the crown, ariſing from the capitulation, will be fully and candidly conſidered, and, if any compenſation is neceſſary to be made to the ſeigniors for the deprivation of theſe juriſdictions, that it will be made them in a manner that ſhall be conſiſtent with juſtice and the honour of the Engliſh nation.

FRENCHMAN.

You are mighty ſcrupulous about this matter. For my part, I have no objection to their having a compenſation for theſe juriſdictions, if juſtice requires that they ſhould have one: but of this I doubt for the reaſons abovementioned. However, if, upon a more exact inquiry into the matter, they ſhall be thought to be intitled to ſuch a compenſation, I am perſuaded, that it can be but a ſmall one. And I have no manner of doubt, that five Engliſh guineas, together with a grant of that right to the eſcheats of their tenants lands, which we ſpoke of a little while ago, as belonging to thoſe ſeigniors who have and exerciſe the *haute juſtice* in their ſeigniories, would be more than an equivalent for all the pecuniary emoluments that can juſtly ariſe to the ſeignior from the exerciſe of theſe powers of judicature in the largeſt and beſt ſeigniory in the province: ---- I ſay, for all the pecuniary emoluments: which are the only advantages attending theſe juriſdictions, for which I think them intitled to a compenſation. How to eſtimate the loſs of dignity they will ſuffer by

an

an abolition of theſe powers, that is, the deprivation of the pleaſure of domineering over and harraſſing their poor tenants by means of them, I confeſs, I do not know: but for this loſs I am clearly of opinion, that they are not intitled to any compenſation; becauſe, if their rights of judicature are preſerved to them at all by the aforeſaid 37th article of the capitulation, they are preſerved only ſo far as they are a part of their goods, or property, or are productive of pecuniary emoluments to them. But we have ſaid enough upon this ſubject, which has too long interrupted you in the account you were giving me of the charter of the province of Maſſachuſets bay, and the alterations which the parliament has lately made in it. I beg, you would proceed in your account of that affair, and make me acquainted with the cauſes of the great diſſatisfaction it has created throughout all America. You had explained to me the nature of the aſſembly of the Maſſachuſets bay, the number of its members, and the manner of chuſing them, but had not ſaid any thing of the council of the province, excepting that it conſiſted of 28 members.

members. Pray, how were thoſe members appointed?

ENGLISHMAN.

Of the council of the province of the Maſſachuſets bay.

They were choſen every year by the whole general court, that is, by the aſſembly and the members of the council for the preceding year voting all together; and then they were preſented to the governour for his approbation. If he approved them, they became members of the council for the next year: but, if he rejected them, the aſſembly and the members of the old council were to proceed to a new election of other perſons to be preſented in like manner to the governour for his approbation; and theſe elections were to be repeated till ſuch perſons were choſen as the governour ſhould approve. Theſe elections were to be made on the firſt day of May in every year, which was the day on which the new aſſembly was to meet. For in this province a new aſſembly is choſen every year; which is a very judicious proviſion, as it keeps up a cloſe connection between them and the people, and makes them be really, what they always profeſs to be, the repreſentatives of the people, the declarers of their

The aſſembly is choſen every year.

their ſentiments, and protectors of their liberties and intereſts.

FRENCHMAN.

I approve much of that practice of chuſing a new aſſembly every year. For, if they were choſen for many years together, there would be reaſon to apprehend, that they would grow proud and inſolent, like our nobleſſe, and ſet up a ſeparate intereſt of their own, diſtinct from that of the people at large. They might be tempted to aſſume to themſelves, (either by their own votes, or with the aſſiſtance of the governour and council, as they ſhould find moſt convenient,) great privileges and diſtinctions above their fellow-ſubjects, and perhaps alſo arbitrary powers over them, under various pretences of publick good, and decorum, and dignity, and the equity of aſſigning rewards to thoſe who tranſact the publick buſineſs: or, at leaſt, they might procure all the magiſtracies, and military commiſſions, and offices in the revenue, and other lucrative employments in the province, and all the temporary and occaſional contracts and leaſes of publick lands or taxes, and all the other favours of govern-

The utility of frequent new elections of the members of the aſſembly.

ment, to be diſtributed amongſt them, to the prejudice of the reſt of the people, whoſe hopes of obtaining theſe advantages in proportion to their ſeveral degrees of merit and ſervice, would be thereby in a manner extinguiſhed. This, I have hear'd, is the caſe in the Canton of Bern in Switzerland, where the government is lodged in the hands of a great council conſiſting of about two hundred members, who fill up their own vacancies when they happen, without any interference of the people. No honourable or profitable employment is ever beſtowed upon any but theſe two hundred perſons, or their near relations; and the reſt of the people are conſidered as ſo many cyphers in the ſtate, very much to their diſſatisfaction. And the ſame kind of injuſtice would probably take place, though in a leſs degree, in the province of Maſſachuſets bay, if the aſſembly, when it was once choſen by the people, was to continue in being for many years together. It was therefore wiſe in the framers of their charter to provide, that the aſſembly ſhould be choſen a-new by the people every year. As to the council indeed, I do not think there was the ſame neceſſity for making

Of the council.

making the members of it annual. Perhaps it might have been better, when once they had been choſen into the council in the fair and honourable manner you have deſcribed, by the joint conſent of the general court and the king's governour, to have permitted them to keep their ſeats for life, or during their good behaviour. By being made thus independent both on the governour and the aſſembly, they would have acquired a greater degree of weight and authority in the government, and their opinions and reſolutions would have been more reſpected by the people than they are likely to be under their preſent conſtitution: and they might thereby have been more uſeful in preſerving the peace of the province, and mediating, as it were, between the governour and the aſſembly, when any diſputes, or differences, ſhould have ariſen between them; which, I preſume, was one of the principal purpoſes for which they were inſtituted.

ENGLISHMAN.

Perhaps it might have been better, when this charter was granted to the province by king William, to have conſtituted the council

in the manner you deſcribe. I incline to think it would have been ſo: and, for the reaſons you have mentioned, I have often wiſhed that the councils of thoſe American provinces, which have no charters, but are governed merely by the king's commiſſions, by a governour, council, and aſſembly, were eſtabliſhed in the manner you mention, for the lives or good behaviour of the members that compoſe them, inſtead of making the members of them wholly dependent, (as they now are throughout all thoſe provinces,) on the pleaſure of the crown or governour for their continuance in that office. And I ſhould likewiſe be glad to ſee the number of the members that compoſe the councils, (which now is only twelve perſons,) increaſed to thirty or thirty-one, and originally choſen in the ſame manner as in the province of the Maſſachuſets bay, by the joint conſent of the aſſembly and the governour; though, if they were all to be appointed only by the king or the governour, it would ſtill be a conſiderable improvement of the preſent conſtitution of the councils of thoſe provinces in favour of the liberty of the people, they being at preſent appointed

appointed originally by the king alone, and alſo removeable intirely at his pleaſure.

FRENCHMAN.

A council conſtituted as thoſe are can, as I imagine, be of no weight, or eſtimation, in the eyes of the people, and conſequently of no uſe in a time of civil diſcord. For the people will naturally ſuppoſe that a council conſiſting of perſons who were both originally appointed by the crown and may be removed at any time at the pleaſure of the crown, can be nothing but an echo of the governour's ſentiments, or at beſt a neutral and ſilent ſpectator of the diſputes between him and the aſſembly, inſtead of a free and open aſſertor of the cauſe of that party which they really conceive to be in the right. But, pray, tell me how the council of the Maſſachuſets bay have uſually acted in times of difficulty, when the aſſembly has had diſputes with the governours of the province, (which I am told has often happened in that province) before the late diſturbances that have prevailed in all the Engliſh provinces in America for theſe ten years paſt. Did they, on thoſe occaſions, take part with the aſſembly againſt the governour

in

in a manner that impartial people thought blameable, ſo as to manifeſt a great dependance on the aſſembly, and a fear of not being re-choſen by them into the council at the next election? or did they ſhew a diſpoſition to ſupport the governour's authority in all matters that were not inconſiſtent with the privileges granted to the people and the aſſembly by the charter? For experience is the beſt guide we can follow in diſquiſitions on political inſtitutions, and its leſſons are greatly to be preferred to the concluſions that can be drawn from mere reaſon and ſpeculation concerning them even by the moſt ſagacious perſons.

ENGLISHMAN.

It certainly is ſo: and I am told that the evidence it affords on this occaſion is much in favour of the conſtitution given to the council of the Maſſachuſets bay by king William's charter. For, though they have depended on the favour of the aſſembly for a re-election to their ſeats in the council, they have uſually, till of late years, taken part with the governour againſt the aſſembly where his pretenſions have had any ſhadow of reaſon to ſupport them, and they have

have always oppoſed the attempts of the aſſembly to encroach on the prerogative of the crown. This I have been aſſured of by a very reſpectable merchant of Boſton with whom I converſed in the month of December, 1769, who was very independent in his ſituation and circumſtances, being an elderly ſingle man and poſſeſſed of a very conſiderable fortune, which he had acquired by his ſkill and induſtry in trade. He died about two years after, and left, as I was aſſured, not leſs than £.20,000 ſterling. He very much diſapproved the riots that had happened at Boſton in the year 1768, in oppoſition to the cuſtom-houſe laws, and which had occaſioned the quartering four regiments of ſoldiers in the town to preſerve the peace of it; and he much approved the meaſure of ſending thoſe ſoldiers thither for that purpoſe, and commended their behaviour during the time they had been quartered there, notwithſtanding the abuſe which many of the diſcontented inhabitants of Boſton were continually pouring out againſt them: and he lamented the removal of two of thoſe regiments from Boſton in the year 1769, which had given encouragement to the diſcontented and violent party in

that

that town to renew their riotous proceedings, and to provoke and inſult the ſoldiers of the two remaining regiments, (which conſiſted of only ſix hundred men,) by threats as well as ill language in a manner that was almoſt paſt bearing; which, a few months after, brought on that unhappy quarrel in which five of the moſt riotous perſons of a mob of an hundred men, that inſulted a centinel on duty, were killed by a party of twelve ſoldiers that came to the centinel's aſſiſtance. This happened on the 5th of March, 1770, and has very unjuſtly been called a maſſacre by the diſcontented party at Boſton. For the fact was ſimply this. A centinel, who was on guard at the cuſtom-houſe, was inſulted by a mob of riotous perſons for more than two hours together, and at laſt was ſo cloſely preſſed upon by them that he was afraid of being driven from his poſt, and therefore rung a bell for aſſiſtance to ſupport him in it. Upon this captain Preſton, an officer of merit, and a guard of twelve ſoldiers, came out to his aſſiſtance, and placed themſelves near him for that purpoſe. The mob, which conſiſted of about an hundred men, continued their inſults on the centinel and the other ſoldiers,

Of the diſturbance at Boſton on the 5th of March, 1770.

diers, and proceeded ſo far in their fury as to pelt them with large lumps of ice, and even to ſtrike ſome of them with ſticks or bludgeons, which provoked them to ſuch a degree that, without any order from their officer, they, of their own accords, fired their pieces at their aſſaulters, irregularly and one after the other, partly from a motive of ſelf-defence and partly from a ſudden and natural reſentment at the ill uſage they had received: and by this fire five of the ringleaders of the mob were killed. The increaſe of the number of riots at Boſton ſoon after the removal of the firſt two regiments from it, made the friends of government, and this gentleman among the reſt, apprehenſive of ſome ſuch fatal misfortune; and therefore they were ſorry that they had been removed. I have mentioned theſe particulars concerning the gentleman I here allude to, in order to ſhew that he was not a factious and diſcontented man, or an enemy to government in general; though it muſt be confeſſed he did not approve the ſtamp-act, nor the principle of taxing the inhabitants of that province by the authority of the Britiſh parliament. He was therefore, upon the whole, as I conceive, as impartial

and candid a witneſs as could well be choſen to give a true account of the uſual temper and conduct of the council of that province on the unhappy occaſions of diſputes between the governours and aſſemblies. And he gave me the account I have above related. He ſpoke of times antecedent to the ſtamp-act, as you, I think, propoſed the queſtion. For he acknowledged that ſince that act the council had been very languid in their endeavours to ſupport the governour's authority, and had ſometimes even joined with the aſſembly in their complaints and remonſtrances againſt the meaſures he eſpouſed. But this he thought was not to be aſcribed to their dependance on the aſſembly for a re-election, (ſince on former occaſions that dependance had not produced the ſame effect,) but to the general prevalence of the opinion that the Britiſh parliament had no legal right to tax the inhabitants of that province, or, if they had ſuch a right in point of ſtrict law, that it was not equitable in them to make uſe of it; which opinion he conceived to have been that of the members of the ſeveral councils of late years, that had diſagreed with the governours, as well as of a vaſt majority of the

the other inhabitants of the province, and of himſelf among the reſt.

FRENCHMAN.

According to this account of the conduct of the councils of that province on former occaſions there is little or no reaſon to wiſh that they had been conſtituted otherwiſe than they were. For it ought not to be expected or deſired that they ſhould aſſiſt or ſupport the governour in oppoſition to the aſſembly in caſes where they really agree in opinion with the latter, and conſequently approve of their proceedings. This would be a dreadful kind of corruption for them to fall into, and would render them both odious and contemptible in the eyes of the people, and conſequently of little uſe to the government. For it is the approbation of good and impartial men, who are qualified by their educations and ſituations in life to judge of publick meaſures, that gives weight and dignity to the conduct of publick officers. But, pray, proceed in your account of the charter of this province, and of the alterations which have been made in it by the late act of parliament paſſed for that purpoſe.

ENGLISHMAN.

The unwillingneſs which the council of the province had ſhewn of late years, (chiefly ſince the paſſing of the ſtamp-act,) to ſupport the authority of the governours in their diſputes with the aſſembly, gave prodigious offence to the governours, and occaſioned them to write letters to his Majeſty's miniſters of ſtate in England, complaining of the refractory ſpirit that, as they ſaid, appeared in the council as well as the aſſembly of the province. And they aſcribed this ſpirit, not (as, I preſume, they ought to have done,) to the delicate nature of the ſubject that was diſputed between the governour and the aſſembly, namely, the right of the Britiſh parliament to tax the Americans (which hardly any people in America have been willing to recognize,) but to the dependance of the members of the council on the aſſembly for a re-election to their ſeats in the council; forgetting that on former occaſions the council had often ſided with the governour againſt the aſſembly notwithſtanding that dependance. And they even repreſented this change of conduct in the council as a matter

of

of ſuch high importance, and as being ſo very prejudicial to the conduct of publick buſineſs in the province, that it was abſolutely neceſſary to find a remedy for it. They therefore recommended to the miniſtry the exertion of the ſupream and uncontroulable authority of the parliament of Great-Britain to correct the charter of the province in this particular, and make the council leſs dependant on the aſſembly.

FRENCHMAN.

This was a very bold piece of advice. For, though it ſhould have been true that the council was too much influenced by its dependance on the aſſembly, and all the ſenſible men in the province ſhould have perceived that it was ſo, and have wiſhed that the council had originally been made more independent, yet I ſhould think they would not like to have its conſtitution altered without their own conſent by the authority of ſuch a diſtant legiſlature as the Britiſh parliament, over whoſe proceedings they had no influence or controul. The power of changing their charter for the better, otherwiſe than at their own requeſt, would involve in it, as they would naturally ſuppoſe, the

the power of changing it for the worſe, which they might fear would be uſed on ſome other occaſion: and therefore I ſhould have expected that they would be greatly diſpleaſed at any alteration in their charter that ſhould be made without their own conſent.

ENGLISHMAN.

It was certainly to be expected that ſuch a meaſure would greatly diſpleaſe them. And the miniſtry of Great-Britain ſeemed for a long while to be apprehenſive that it would do ſo. For, notwithſtanding the ſuggeſtions of the governours of the province, they for a long time forbore to meddle with the charter, even till the unfortunate affair of the deſtruction of the tea at Boſton in December, 1773. But that act of violence threw both the whole miniſtry and parliament of Great-Britain, and, one may almoſt ſay, the whole Britiſh nation, into a fit of indignation and fury againſt the Americans, which laſted throughout the whole ſeſſion of parliament in the ſpring of the year 1774, and produced a ſeries of acts of parliament that ſavoured of the temper in which they were framed, being every one more ſevere

and

and vindictive, and alarming and irritating to the Americans, than that which was next before it, from the bill for ſhutting up the harbour of Boſton, which was paſſed the firſt, to the Quebeck bill, which concluded them.

FRENCHMAN.

Pray what induced the people of Boſton to commit ſo great an outrage, by which they were ſo likely to draw upon themſelves the reſentment of the mother-country? And what do they alledge in juſtification of ſo violent a proceeding?

ENGLISHMAN.

All their arguments in juſtification of this proceeding turn upon the grand point which has been ſo warmly conteſted of late years between Great-Britain and her colonies in America, the right of the Britiſh parliament to impoſe taxes on the Americans. Had this point been clearly ſettled, either in the affirmative or the negative, between Great-Britain and her colonies, that act of violence would never have been committed. But, as that right was inſiſted on by Great-Britain and poſitively denied

by

by the Americans, the endeavour to carry it into execution has met with a reſiſtance from the Americans, which they conſider as being lawful, becauſe it is made to an illegal exertion of power.

FRENCHMAN.

Of the grounds upon which the Americans pretend that the parliament has no right to tax them.

Pray, upon what ground do the Americans deny the right of the Britiſh parliament to tax them? For we, Canadians, have always been told that the Britiſh parliament, conſiſting of the King, the Lords, and the Commons of Great-Britain, are the ſupream legiſlature of Great-Britain and all its dependencies; and accordingly we think ourſelves bound to ſubmit to the late act of parliament for regulating the government of this province, notwithſtanding we much diſlike it; and, as to the other act of parliament, for impoſing certain duties on ſpirituous liquors in this province, which was paſſed at the ſame time as the former, I have heard no complaints at all againſt it either from the Canadians or the Engliſh inhabitants of the province. We eſteem the duties themſelves to be moderate and judicious, and ſuch as it is reaſonable the province ſhould pay towards the maintenance

maintenance of its own civil government, and we conſider the authority of the parliament, by which they were impoſed, as indiſputably adequate to ſuch an operation. Our notion of the change made in our political ſituation by the conqueſt of the province in 1760 is this; that, whereas we were before ſubject to the ſingle authority of the king of France, who might tax us and make laws for us in the manner he thought proper, we have ſince that time been ſubject in the ſame degree to the joint authority of the king and parliament of Great-Britain, whoſe power in Great-Britain is, as we have been informed, full as extenſive and uncontroulable as that of the king of France is in France. And by this change we conſider ourſelves as being gainers, becauſe we think that a legiſlature conſiſting of a King, a Houſe of Lords of more than two hundred members, and a Houſe of Commons of more than five hundred members, having each of them a negative on the reſolutions of the other two, are leſs likely to paſs any acts by which we may be injured and oppreſſed, than a king alone would be, who might be eaſily impoſed upon and led into bad meaſures by artful and wicked miniſters.

ENGLISHMAN.

I intirely approve of your notions of the preſent political ſituation of the province of Quebeck. It is the ſame with that which I have always entertained myſelf upon that ſubject. It would indeed be a ſtrange doctrine to ſay that, when a country has been conquered by the Britiſh arms, and afterwards formally ceded to the crown of Great-Britain, (as this has been,) it ſhould not become ſubject, in point of legiſlation and taxation and every ſpecies of political government, either to the king alone or to the king and parliament conjointly. The only doubt which has been formerly made upon this ſubject has been whether the king alone did not, upon the conqueſt and ceſſion of a country to the crown of Great-Britain, become intitled to the whole power of government over it, without the concurrence, or interference, of the parliament. And many Engliſh lawyers have formerly been of opinion that the king did become intitled to this power. But the other opinion, of the right of the parliament to a ſhare of the legiſlative authority over ſuch new-acquired country as well

as

as over the ancient poſſeſſions of the crown, ſeems to be more reaſonable, and, I think, is more generally adopted at this day.

FRENCHMAN.

Since that is the opinion that now prevails, how comes it that the Boſtonians and other Engliſh Americans pretend that the king and parliament have no power of impoſing taxes upon them? They would not ſurely chuſe to be taxed by the king's ſingle authority, without the concurrence of the parliament.

ENGLISHMAN.

No: by no means. That they would conſider as a much worſe condition than the being ſubject to the king and parliament conjointly; though ſome of their writers have now and then, in the heat of argument, declared that, of the two, they would rather chuſe to be ſubject to the king alone, in point of taxation, than to the king and parliament conjointly. But in this they could hardly be ſincere; or, if they were, it was probably only a momentary ſentiment, while their minds were full of indignation againſt the thought of

being taxed by the parliament, and not their ſettled and deliberate opinion, or, at leaſt, not that of the greater part of the Americans. However, they expreſsly reject both theſe authorities, and inſiſt that no taxes can be lawfully levied upon them but by their own repreſentatives, choſen by themſelves for that purpoſe, in the aſſemblies of their reſpective provinces, which they conſider as ſo many ſeparate parliaments, that have the ſame legal powers in their reſpective provinces as the Britiſh parliament has in Great-Britain.

FRENCHMAN.

This pretenſion of theirs ſeems favourable to liberty, but prejudicial to the unity of the Britiſh empire. For, if there is no common legiſlature whoſe power extends over all the dominions of the crown of Great-Britain, thoſe dominions cannot properly be ſaid to make *one ſtate*, or *great political community*, but are rather an aſſemblage of ſeveral ſeparate ſtates under the ſame king, or executive magiſtrate. This muſt produce a variety of counſels in the ſeveral parts of the Britiſh empire, which muſt tend very much to leſſen the weight and influence

fluence they would have if they acted under one supream legislative head. But, pray, upon what reasons do they found this pretension of being exempt from the legislative authority of the British parliament? Is there any thing in their charters that countenances a claim of this kind? or do they maintain it only upon general principles of equity and liberty and the rights of nature?

ENGLISHMAN.

They ground their claim upon both these reasons, but principally upon the latter, the general principles of equity and the law of nature; which indeed is by much their best argument. For their charters afford little ground for this pretension, as I shall leave you to judge when I have stated to you the manner in which they argue from them. In both the charters of the Massachuset's bay, the old and the new one, and in most of the other charters of the American colonies, there is a clause inserted that declares that the children of the persons who shall go and settle in those colonies shall have all the privileges of English subjects born within the realm of England.

An argument of the Americans derived from their charters.

The

The clauſe in king William's charter to the inhabitants of the Maſſachuſet's bay is in theſe words: " *And further, our will and pleaſure is, and we do hereby, for us, our heirs and ſucceſſors, grant, eſtabliſh, and ordain, That all and every the ſubjects of us, our heirs and ſucceſſors, which ſhall go to, and inhabit within, our ſaid province or territory, and every of their children which ſhall happen to be born there, or on the ſeas in going thither or returning from thence, ſhall have and enjoy all liberties and immunities of free and natural ſubjects within any of the dominions of us, our heirs and ſucceſſors, to all intents, conſtructions, and purpoſes whatſoever, as if they, and every of them, were born within this our realm of England.*" The plain meaning and deſign of this clauſe was to prevent the children of Engliſhmen, who ſhould go from England and ſettle in the province of the Maſſachuſets bay, from being conſidered as foreigners and excluded from the privileges of natural-born ſubjects of England, ſuch as the right of purchaſing land in England and of holding offices of truſt and profit, and the like, which it might otherwiſe have been doubted whether they were intitled to. Yet, from this

clauſe

clauſe ſome of the American writers have attempted to derive a proof that they are exempted from the authority of parliament with reſpect to taxation, by the following train of reaſoning. The American coloniſts are intitled, ſay they, by virtue of this clauſe, to the ſame privileges as the inhabitants of old England. But the inhabitants of old England are intitled to be exempt from paying any taxes but ſuch as granted to the crown by themſelves or their repreſentatives, choſen by themſelves, (or by ſuch among themſelves as have freehold land of the annual value of forty ſhillings,) in the commons houſe of parliament. Therefore, the Americans are intitled in like manner to be exempt from paying any taxes but ſuch as are granted by themſelves or their repreſentatives, choſen by themſelves, in the aſſemblies of their reſpective colonies. This argument is rather a bold than an artful one, ſince the fallacy of it is ſo extreamly evident that it can hardly eſcape the leaſt diſcerning reader. For, it fails in the very firſt propoſition, which affirms, that, by virtue of the aforeſaid clauſe, the American coloniſts are intitled to the ſame privileges as the inhabitants of old England. Now, this clauſe has

not

not the leaſt relation to the degree of their political freedom in their own province, but barely to their condition when they ſhall come to England, or go to ſome other dominion of the crown of Great-Britain that is out of their own province; and in that caſe it provides for their enjoyment of the ſame privileges in England, or ſuch other dominion of Great-Britain, (notwithſtanding their having been born in America,) as if they had been natives of England. The degree of their political liberty in their own province is determined in the other clauſes of the charter, which ſettle their right of chuſing their repreſentatives in the aſſembly, the right of their aſſembly to chuſe the council, the powers to be exerciſed by the governour, and the governour and council, and by the governour, council, and aſſembly, and, in ſhort, by almoſt every clauſe in the charter, except that which they adduce in ſupport of this claim of an exemption from the parliament's power of taxing them.

Another argument of the Americans derived from their charters.

But there is another argument in ſupport of this claim, which they alſo derive from their charter, and which is much more plauſible than

than the former, though not, in my opinion, by any means concluſive. Their charter gives the governour, council, and aſſembly of the province a power to raiſe money upon the people; which they contend to be an *implied*, or *virtual*, excluſion of the parliament from any right to exerciſe the ſame power over them. For, ſay they, if the parliament may tax us, we ſhall be liable to be taxed by two diſtinct legiſlatures; which is abſurd and unjuſt. But I confeſs, I can ſee neither injuſtice nor abſurdity in a man's being liable to be taxed by two, or even by twenty, different legiſlatures, if ſuch is the conſtitution of the ſociety he belongs to. And I believe there are few countries in which a man is not liable to be taxed by ſeveral different authorities on different occaſions and for different purpoſes. In England people are taxed by one ſet of men towards the maintenance of the poor; by another, in London and many other great towns, towards paving the ſtreets and lighting the lamps; by a third in corporate bodies, towards the joint or common expences of the community; and by the parliament towards the general expences of the nation, ſuch as the maintenance of the

fleet, the army, the publick arſenals and fortreſſes, the adminiſtration of juſtice and the ſupport of the king's houſhold. There is nothing in all this that is either abſurd or unjuſt. Unleſs therefore the clauſes in the American charters by which the governours, councils, and aſſemblies are impowered to raiſe taxes upon the people, contain ſome clear and expreſs words that exclude all taxation by any other authority, it will not follow by mere implication, from their having ſuch a power, that the parliament has not likewiſe an authority to raiſe taxes on them, when the publick exigencies of the ſtate require it. We muſt therefore examine the charters of the ſeveral provinces of America that have charters, (for ſome of them have no charters, but are governed merely by the king's commiſſions,) in order to ſee whether they contain any clear and expreſs words of excluſion of every other method of taxation, except by their own aſſemblies. Now, if we do this, we ſhall find one, and but one charter in all America in which there is any appearance of ſuch words of excluſion: and that is the charter of Maryland. In that charter, which differs conſiderably from

Of the charter of Maryland.

moſt

moſt of the other charters on the continent, (being a grant to the lord Baltimore, made by king Charles I. in the year 1632, of a tract of country to be holden as a county palatine,) there is a clauſe that perhaps may be thought to amount to an excluſion of the right of parliament to tax the inhabitants of that province, or to a promiſe on the part of the king and his ſucceſſors, that they never will give their aſſent to any bill that ſhall be propoſed to them in the Engliſh parliament for taxing them. It is in theſe words: "*And further, our pleaſure is, and by theſe preſents, for us, our heirs and ſucceſſors, we do covenant, and grant, to and with the ſaid lord Baltimore, and his heirs and aſſigns, that we, our heirs and ſucceſſors, ſhall at no time hereafter ſet or make, or cauſe to ſet, any impoſition, cuſtom, or other taxation, rate, or contribution whatſoever, in and upon the dwellers and inhabitants of the aforeſaid province, for their lands, tenements, goods, or chattels, within the ſaid province, or in and upon any goods or merchandize within the ſaid province, or to be laden or unladen within the ports or harbours of the ſaid province.*" By this clauſe the king covenants with lord Baltimore, *that*

he will not ſet, or cauſe to ſet, any impoſition, or tax, upon the people of Maryland; by which it may be contended that he meant to tie himſelf up from aſſenting to any bills in parliament for taxing them. Yet I much doubt, whether that was the true meaning of this clauſe, becauſe the king's giving his aſſent to a tax-bill is not properly *ſetting a tax, or cauſing others to ſet it*, but is accepting a free gift from the people, made in their names, and for them, by their repreſentatives, or agents, the members of the houſe of commons. For the form of giving the royal aſſent to ſuch a bill is not by theſe words, "*Le Roi le veut*," which are the words uſed in giving the royal aſſent to any other bill, but by theſe words, "*Le Roi remercie ſes bons ſujets, et accepte leur bienveillance*;" ſo that the king can hardly be ſaid to have ſet a tax, or cauſed others to ſet it, when he has given the royal aſſent to it. Another reaſon why I doubt whether the foregoing clauſe is to be underſtood as a promiſe on the part of the crown never to conſent to a bill of the Britiſh parliament for taxing the inhabitants of Maryland, is this. The king at this time governed the nation by his own abſolute authority without

out a parliament, and had publickly declared, by a proclamation made three years before the paſſing this charter, that he did not intend to call any more parliaments; which reſolution he kept for eleven years together, from the year 1629 to the year 1640, governing all that time in an illegal and arbitrary manner, and cauſing many cruel puniſhments to be inflicted by certain courts of juſtice which were then in being, and which were intirely devoted to his pleaſure, (but which have been ſince aboliſhed,) on all thoſe perſons who preſumed to find fault with his government; till at laſt he drove his people into that famous civil war, which, after various ſucceſſes during four years, ended at laſt to his diſadvantage, and was followed firſt by his being impriſoned by his own victorious ſubjects, and afterwards (upon his repeated refuſals to make peace with them upon the terms they required,) by his being publickly beheaded by them. It was during theſe tyrannical eleven years, when it was made criminal in England to talk of the meeting of a parliament, that King Charles granted this charter to the Lord Baltimore: and therefore it ſeems probable that neither the King nor

Lord

Lord Baltimore had any view to parliamentary taxation when it paſſed. And there is ſtill another circumſtance that induces me to think that the foregoing clauſe in the charter of Maryland ought not to be conſtrued as an excluſion of all parliamentary taxation upon the inhabitants of that province. It is this. This charter was intended to convey to the Lord Baltimore and his heirs and aſſigns, the ſame powers and privileges as belonged to the biſhops of Durham in England, as appears by the following words of it; "*Together with all and ſingular the like, and as ample, rights, juriſdictions, privileges, prerogatives, royalties, liberties, immunities, royal rights and franchiſes, of what kind ſoever, temporal, as well by ſea as by land, within the country, iſles, iſlets, and limits aforeſaid; to have, exerciſe, uſe, and enjoy, the ſame as amply as any biſhop of Durham, within the biſhoprick or county palatine of Durham in our kingdom of England, hath at any time heretofore had, held, uſed, or enjoyed, or of right ought, or might, have had, held, uſed, or enjoyed.*" From this clauſe it ſeems reaſonable to conclude that the intention of King Charles I. and Lord Baltimore, at the time of paſſing this charter, was,

That

That the inhabitants of Maryland ſhould ſtand in the ſame relation to the crown (whatever that relation might be) as the inhabitants of the biſhoprick of Durham in England, and conſequently that the king ſhould be at liberty to exerciſe the ſame authority over them as over the inhabitants of that biſhoprick, and levy money upon them in the ſame caſes in which he might lawfully levy money upon thoſe inhabitants. Now at that time it was cuſtomary for the inhabitants of the biſhoprick of Durham to contribute to ſuch taxes as were granted to the crown by the parliament of England, notwithſtanding they did not ſend any repreſentatiues to it. And therefore it ſhould ſeem that the inhabitants of Maryland muſt have been liable in like manner to contribute to ſuch taxes as ſhould be granted for them to the crown by the parliament of England, or, at leaſt, that their charter could not exempt them from ſuch an obligation, if, upon other grounds, they ſhould be ſubject to it.

It is true indeed that about thirty years after, when king Charles the ſecond was reſtored to the poſſeſſion of his father's throne, the inhabitants

tants of the biſhoprick of Durham did make an application to the crown for leave to ſend members to the Engliſh parliament, upon the ground of the reaſonableneſs and equity of having ſome ſhare in paſſing thoſe laws which they were bound to obey, and in granting thoſe taxes to which they were bound to contribute; acknowledging their obligation to ſubmit to the laws and taxes impoſed on them by the Engliſh parliament. And this requeſt of theirs was thought reaſonable and was complied with; and an act of parliament was paſſed to impower them, for the future, to ſend four members to the parliament, two of which were to be choſen by the citizens of the city of Durham, and the other two by the freeholders of the whole biſhoprick. And in like manner, no doubt, the people of Maryland, if they were fully to acknowledge, and ſubmit to, the right of the Britiſh parliament to make laws and taxes for them, would have an equitable ground for deſiring the privilege of ſending members to it. But this they have not done: and in the mean time the example of the biſhoprick of Durham, (which was, in a great meaſure, made the model of the government of their province)

province) ſeems rather to ſhew that they are not exempted by virtue of their charter from an obligation of paying ſuch taxes as ſhall be granted for them from time to time to the crown by the parliament of Great-Britain.

Upon the whole, therefore, I am inclined to think that even the inhabitants of Maryland are not exempted by their charter from the obligation of paying ſuch taxes as the Britiſh parliament ſhall grant for them to the crown, if they would be legally ſubject to ſuch an obligation upon any other grounds; which is another queſtion, which we will conſider preſently.

And if the province of Maryland is not exempted from parliamentary taxation by its charter, I am ſure no other province in America can pretend to be ſo upon the ſame ground. For in the charter of Penſylvania, which was granted by king Charles II. to William Penn, and his heirs and aſſigns, in the year 1682, that is, fifty years after the grant of the charter of Maryland, there is a clauſe which expreſsly recognizes the power

Of the charter of Penſylvania.

of the king and parliament of Great-Britain to impoſe taxes on the inhabitants of that province. It is in theſe words. " *And further, our pleaſure is, and by theſe preſents, for us, our heirs and ſucceſſors, we do covenant and grant, to and with the ſaid William Penn, and his heirs and aſſigns, that we, our heirs and ſucceſſors, ſhall at no time hereafter ſet or make, or cauſe to ſet, any impoſition, cuſtom, or other taxation, rate, or contribution whatſoever in and upon the dwellers and inhabitants of the aforeſaid province, for their lands, tenements, goods, or chattels within the ſaid province, or to be laden or unladen within the ports or harbours of the ſaid province, unleſs the ſame be with the conſent of the proprietary, or chief governour, and aſſembly, or by act of parliament.*" From theſe laſt words it is plain that king Charles II. did not mean to exempt the inhabitants of Penſylvania by this charter from ſuch taxes as ſhould be impoſed on them by the Engliſh parliament, but rather that he ſuppoſed they would ſtill continue liable to pay thoſe taxes in the ſame manner as they would have been if they had ſtayed in England inſtead of going to ſettle in Penſylvania. And it is probable

probable that William Penn and his followers had at that time no view, or desire, of being exempt from parliamentary taxation, but only wished to be secured against any taxes which the king by his single authority might be tempted to impose upon them; there being then (as I observed before) an opinion prevailing amongst many people, and countenanced by the court lawyers of the time, that the king of England might govern the dependent dominions of the crown by his own absolute authority and without the concurrence of the parliament, unless he precluded himself from so doing by his own act by granting a charter to the inhabitants of such a dependent dominion containing the intended limitations of his said absolute authority; in which case it was supposed that he would be bound by those limitations. And against such a taxation, by the single authority of the crown, the clause above-recited is a very proper guard. It is plain therefore that the inhabitants of Pensylvania cannot justly pretend to be exempted from parliamentary taxation by virtue of their charter. Nor indeed do they, as I believe, pretend to it upon that ground.

Of the charter of the province of the Maſſachuſets bay.

I will next conſider the charter which was granted by king William to the inhabitants of the Maſſachuſets bay in the year 1692, which we have had frequent occaſion to ſpeak of already. The only clauſe in this charter that has any relation to the raiſing money upon the inhabitants of the province, is in theſe words. "*And we do, for us, our heirs and ſucceſſors, give and grant, that the ſaid general court, or aſſembly, ſhall have full power and authority to impoſe and levy proportionable and reaſonable aſſeſſments, rates, and taxes, upon the eſtates and perſons of all and every the proprietors, or inhabitants, of our ſaid province, or territory, to be iſſued and diſpoſed of by warrant under the hand of the governour of our ſaid province for the time being, with the advice and conſent of the council, for our ſervice in the neceſſary defence and ſupport of our government of our ſaid province or territory, and the protection and preſervation of the inhabitants there, according to ſuch acts as are or ſhall be in force within our ſaid province.*" Here are no words that exclude the authority of parliament to impoſe other taxes on the inhabitants of that province. On the contrary, the words of this

this clauſe afford a reaſonable ground for ſuppoſing that it was the intention of the framers of this charter, and of king William who granted it, that thoſe inhabitants ſhould continue ſubject to parliamentary taxation. For the power of raiſing money on them granted to the aſſembly by this clauſe is not a general power of raiſing it for any publick purpoſe whatſoever, but only for the neceſſary defence and ſupport of the king's government of the ſaid province. Suppoſe therefore that the aſſembly of the Maſſachuſets bay were inclined to contribute a certain ſum of money towards the expence of the king's houſhold, or towards the maintenance of the Britiſh fleet or army, or the fortifications of Gibraltar or Port Mahon, (all which are branches of the publick expence of the nation to which it is reaſonable that both they and all other ſubjects of the crown ſhould contribute in proportion to their abilities,) and to direct that this money ſhould be ſent to England, and lodged in the king's exchequer there, and iſſued by the warrants of the king's lord high treaſurer, or of the commiſſioners appointed to execute the office of lord high

treaſurer,

treaſurer, for the ſeveral purpoſes for which it had been granted;---ſo much to the king for his civil liſt; ſo much to the treaſurer of the navy for the ſupport of the fleet; ſo much to the paymaſter of the army for the ſupport of the army; and ſo on;----I ſay, if the aſſembly of the Maſſachuſets bay were to be diſpoſed to do theſe equitable and generous actions, they would not have a legal right to do them by means of the aforeſaid clauſe in their charter; becauſe they are thereby impowered only to raiſe money upon the inhabitants of the province *for the neceſſary defence and ſupport of the government of the ſaid province, and the protection and preſervation of its inhabitants.* Yet theſe contributions to the general expences of the Britiſh empire are in themſelves reaſonable and proper, and fit to be made by the people of the Maſſachuſets bay, as well as by all the other ſubjects of the crown, as ſoon as they ſhall be in a ſufficient ſtate of opulence to be able to make them: and king William, and the framers of the charter he granted to that province, muſt neceſſarily be ſuppoſed to have thought them ſo. And therefore, as he thought fit to give,

by

by this charter, to the aſſembly of this province only a limited power of raiſing money upon the inhabitants of it for the uſe of the province itſelf, it is reaſonable to conclude that he ſuppoſed they would continue liable to be taxed by the Engliſh parliament towards thoſe other and more general branches of the publick expence after they had received this charter as well as before. And if to this way of reaſoning upon this ſubject (which ſeems to me to be a very fair one) we add this other conſideration, that this charter to the Maſſachuſets bay was granted ten years after the charter of Penſylvania, in which the power of the Engliſh parliament to impoſe taxes on the inhabitants of it is expreſsly recognized, notwithſtanding the privileges granted by that charter to William Penn and his followers are in other reſpects uncommonly extenſive, it will be almoſt impoſſible to conceive that the aforeſaid clauſe in the charter of the Maſſachuſets bay (by which the aſſembly is impowered to raiſe taxes for certain purpoſes on the inhabitants,) was intended by king William to exempt them from parliamentary taxation. And

there

there is no other clauſe in this charter that has any relation to this ſubject. We may therefore conclude that the inhabitants of the Maſſachuſets bay are not exempted by their charter from the obligation of paying the taxes which the Britiſh parliament ſhall impoſe upon them.

Of the charters of Connecticut and Rhode iſland.

The charters of the colonies of Connecticut and Rhode-iſland contain no clauſe to impower the aſſemblies of thoſe colonies to raiſe money upon the other inhabitants. They contain only a limited power of making laws for the good government of thoſe colonies. The clauſe for this purpoſe in the charter of Connecticut is in theſe words. " *And we further, of our eſpecial grace, certain knowledge, and meer motion, give and grant unto the ſaid governour and company of the Engliſh colony of Connecticut in New-England in America, and their ſucceſſors, that it ſhall and may be lawful to and for the governour, or deputy governour, and ſuch of the aſſiſtants of the ſaid company for the time being as ſhall be aſſembled in any of the general courts aforeſaid, or in any courts to be eſpecially ſummoned or aſſembled for that purpoſe, or the greater*

part

part of them, (whereof the governour, or deputy-governour, and six of the assistants to be always seven,) to erect and make such judicatories for the hearing and determining of all actions, causes, matters, and things happening within the said colony or plantation, and which shall be in dispute and depending there, as they shall think fit and convenient; and also, from time to time, to make, ordain, and establish all manner of wholesome and reasonable laws, statutes, ordinances, directions and instructions, not contrary to the laws of this realm of England, as well for settling the forms and ceremonies of government and magistracy fit and necessary for the said plantation and the inhabitants there, as for naming and styling all sorts of officers, both superiour and inferiour, which they shall find needful for the government and plantation of the said colony and the distinguishing and setting forth of the several authorities, powers, and limits of every such office and place, and the forms of such oaths, (not being contrary to the laws and statutes of this our realm of England) to be administered for the execution of the said several offices and places; as also for the disposing and ordering of the election of such of the said officers as are to be annually chosen, and

Power to erect courts of judicature.

And to make laws and ordinances not contrary to the laws of England.

of such others as shall succeed, in case of death or removal, and administering the said oath to the new-elected officers, and granting necessary commissions, and for imposition of lawful fines, mulcts, imprisonments, or other punishments, upon offenders and delinquents, according to the course of other corporations within this our kingdom of England; and the same laws, fines, mulcts and executions, to alter, change, revoke, annul, release or pardon, under their common seal, as by the said general assembly, or the major part of them, shall be thought fit; and for the directing, ruling and disposing of all other matters and things, whereby our said people, inhabitants there, may be so religiously, peaceably and civilly governed, as their good life, and orderly conversation, may win and invite the natives of the country to the knowledge and obedience of the only true God and Saviour of mankind, and the Christian faith; which in our royal intentions, and the adventurers free profession, is the only and principal end of this plantation; willing, commanding and requiring, and by these presents, for us, our heirs and successors, ordaining and appointing, that all such laws, statutes and ordinances, instructions, impositions and directions, as shall be so made by the

Reference to other corporations within the kingdom of England.

the governour, deputy-governour and aſſiſtants, as aforeſaid, and publiſhed in writing under their common ſeal, ſhall carefully and duly be obſerved, kept, perſormed, and put in execution, according to the true intent and meaning of the ſame; and theſe our letters patents, or the duplicate or exemplification thereof, ſhall be, to all and every ſuch officers, ſuperiours and inferiours, from time to time, for the putting of the ſame orders, laws, ſtatutes, ordinances, inſtructions and directions, in due execution, againſt us, our heirs and ſucceſſors, a ſufficient warrant and diſcharge."

The ſaid laws ſhall be publiſhed in writing under their common ſeal.

And the clauſe for this purpoſe in the charter of Rhode-iſland is in theſe words. "*And further, we do of our eſpecial grace, certain knowledge, and mere motion, give and grant unto the ſaid governour and company of the Engliſh colony of Rhode-iſland and Providence plantations, in New-England, in America, and their ſucceſſors, That the governour, or in his abſence, or by his permiſſion, the deputy-governour of the ſaid company, for the time being, the aſſiſtants, and ſuch of the freemen of the ſaid company as ſhall be ſo as aforeſaid elected or deputed, or ſo many of them as ſhall be preſent at ſuch meeting or aſſembly, as*

Conſtitution of the general aſſembly.

aforesaid, shall be called the general assembly; *and that they, or the greatest part of them then present, (whereof the governour, or deputy-governour, and six of the assistants at least, to be seven,) shall have, and have hereby given and granted unto them, full power and authority, from time to time, and at all times hereafter, to appoint, alter, and change such days, times and places of meeting, and general assembly, as they shall think fit, and to chuse, nominate and appoint such and so many persons as they shall think fit, and shall be willing to accept the same, to be free of the said company and body politic, and them into the same to admit, and to elect, and constitute such offices and officers, and to grant such needful commissions as they shall think fit and requisite, for ordering, managing, and dispatching of the affairs of the said governour and company, and their successors; and, from time to time, to make, ordain, constitute, or repeal, such laws, statutes, orders and ordinances, forms and ceremonies of government and magistracy, as to them shall seem meet, for the good and welfare of the said company, and for the government and ordering of the lands and hereditaments herein after mentioned to be granted, and of the people that do, or at any time hereafter shall*

Powers of the general assembly.

Power to make laws and ordinances not repugnant to the laws of England.

ſhall inhabit, or be within the ſame; ſo as ſuch laws, ordinances, and conſtitutions, ſo made, be not contrary and repugnant unto, but, as near as may, agreeable to the laws of this our realm of England, conſidering the nature and conſtitution of the place and people there; and alſo, to appoint, order, and direct, erect and ſettle ſuch places and courts of juriſdiction, for hearing and determining of all actions, caſes, matters and things, happening within the ſaid colony and plantation, and which ſhall be in diſpute, and depending there, as they ſhall think fit; and alſo to diſtinguiſh and ſet forth the ſeveral names and titles, duties, powers and limits, of each court, office and officer, ſuperiour and inferiour; and alſo, to contrive and appoint ſuch forms of oaths and atteſtations, not repugnant, but as near as may be agreeable as aforeſaid to the laws and ſtatutes of our realm, as are convenient and requiſite, with reſpect to the due adminiſtration of juſtice, and due execution and diſcharge of all offices and places of truſt, by the perſons that ſhall be therein concerned; and alſo to regulate and order the way and manner of all elections to offices and places of truſt, and to preſcribe, limit and diſtinguiſh the number and bounds of all places, towns and cities,

Power to erect court of judicature.

cities, with the limits and bounds herein after mentioned, and not herein particularly named, who have or ſhall have the power of electing and ſending of freemen to the ſaid general aſſembly; and alſo to order, direct and authoriſe, the impoſing of lawful and reaſonable fines, mulcts, impriſonments, and executing other puniſhments, pecuniary and corporal, upon offenders and delinquents, according to the courſe of other corporations within this our kingdom of England; and again, to alter, revoke, annul or pardon, under their common ſeal, or otherwiſe, ſuch fines, mulcts, impriſonments, ſentences, judgments and condemnations, as ſhall be thought fit; and to direct, rule, order and diſpoſe of all other matters and things, and particularly of that which relates to the making of purchaſes of the native Indians, as to them ſhall ſeem meet; whereby our ſaid people and inhabitants in the ſaid plantations, may be ſo religiouſly, peaceably and civilly governed, as that by their good life, and orderly converſation, they may win and invite the native Indians of the country to the knowledge and obedience of the only true God and Saviour of mankind; willing, commanding and requiring,

Reference to other corporations within the kingdom of England.

and

and by theſe preſents, for us, our heirs and ſucceſſors, ordaining and appointing, that all ſuch laws, ſtatutes, orders and ordinances, inſtructions, impoſitions and directions, as ſhall be ſo made by the governour, deputy, aſſiſtants and freemen, or ſuch number of them as aforeſaid, and publiſhed in writing under their common ſeal, ſhall be carefully and duly obſerved, kept, performed and put in execution, according to the true intent and meaning of the ſame. And theſe our letters patents, or the duplicate or exemplification thereof, ſhall be to all and every ſuch officers, ſuperiour or inferiour, from time to time, for the putting of the ſame orders, laws, ſtatutes, ordinances, inſtructions and directions, in due execution, againſt us, our heirs and ſucceſſors, a ſufficient warrant and diſcharge."

It is only by virtue of theſe clauſes in the charters of Connecticut and Rhode-Iſland that it can be pretended, that the aſſemblies of thoſe provinces have any power of raiſing money upon the other inhabitants of them, and this by an indirect method of reaſoning, that is, by conſidering this power as a branch of

of the power, given them by theſe clauſes, of making laws and ordinances for the good government of the province; which is but a doubtful and uncertain way of conveying to a corporation ſo important a power as that of raiſing money upon the members of it, and ſuch as would not, I believe, be allowed to be valid in the caſe of a new charter that ſhould be granted to a corporation. And this power of making laws ſeems to be of a very limited nature, and to relate only to the making ſuch new offences as ſhall be puniſhed by fines or impriſonment, and not ſuch as ſhall be puniſhed by loſs of life or limb, and has an expreſs reference to the powers granted in the charters of other corporations in England, none of which are in any degree exempt from the authority of parliament either with reſpect to laws or to taxes. It ſeems to me, therefore, that neither of theſe two charters can be fairly ſuppoſed to convey to the inhabitants of thoſe provinces an exemption from parliamentary taxation.

I have now given you an account of all the charters I am acquainted with on the continent

tinent of North-America, ſo far as they relate to the power of raiſing taxes on the Americans; and have ſtated to you the arguments which the Americans derive from theſe charters in ſupport of their claim of being exempted from taxation by the Britiſh parliament, together with the reaſons that induce me to conſider thoſe arguments as altogether inconcluſive. I am afraid I have been rather tedious in making this deduction. But I really could not make it ſhorter, without omitting ſomething that I thought material and fit for your conſideration. But now you have the whole ſubject before you in as full a manner as I am acquainted with it, and are therefore able to form an opinion upon it for yourſelf without any regard or reference to mine; which, I preſume, is what you would wiſh to do.

FRENCHMAN.

As the contents of theſe American charters were quite unknown to me before, (except only as far as I had ſeen them alluded to, or imperfectly cited, in news-papers,) I have not thought your account of them at all too long. So new a ſubject requires a pretty

full explanation; more eſpecially when it has been made the ſubject of controverſy, (as this has been,) and given occaſion to ſubtle and artificial reaſonings in ſupport of a favourite concluſion. As to my opinion on the claim of the Americans to be exempted from parliamentary taxation in conſequence of theſe clauſes in their charters, I muſt needs anſwer that I can hardly yet venture to form an opinion upon a ſubject of ſo delicate a nature which I have now hear'd diſcuſſed for the firſt time. However, as far as I can judge of it on this ſudden information, I agree with you in thinking, that the Americans have no manner of title to be exempted from the authority of the parliament of Great-Britain with reſpect to the impoſition of taxes, in conſequence of any thing contained in the clauſes you have recited from their charters. But, many of the provinces, I find, are governed without charters, by the authority of the king's commiſſions to his governours. Pray, is there any thing in thoſe commiſſions that countenances this claim of the Americans to be exempt from parliamentary taxation?

Of the royal governments in America, that have no charters, but are governed by the king's commiſſions.

ENGLISH-

ENGLISHMAN.

Not a word; as you ſhall ſoon be convinced. The commiſſions of Captain-general and Governour in chief, that are given by the king's Majeſty to his Governours of the ſeveral provinces in North-America that are under his immediate government, are, I believe, very much like each other, and contain nearly the ſame powers and directions, one as the other, for the government of thoſe provinces: ſo that, if we examine one of theſe commiſſions with a view to the ſubject of our preſent inquiry, we may apply the concluſions we ſhall draw from ſuch an examination to the other provinces that are governed by his majeſty's commiſſions. We will therefore examine the commiſſion of the governour of New-York. Now in that commiſſion there is no clauſe that expreſsly impowers the governour, council, and aſſembly of the province to impoſe taxes on the people: but there is only a clauſe to impower them to make laws and ordinances for the peace, welfare, and good government of the province, which has been generally ſuppoſed to involve in it a power of raiſing mo-

ney upon the inhabitants of the province as a part, or branch, of the more general power of making laws. And this interpretation of this clauſe is countenanced by a ſubſequent clauſe in the ſame commiſſion, which evidently ſuppoſes that money may be raiſed in the province by virtue of it, and directs and impowers the governour, by and with the advice and conſent of the council of the province, to iſſue out, by his warrants, the money which ſhall be ſo raiſed, and diſpoſe of it for the ſupport of the government of the province, and not otherwiſe. And it is only under this clauſe, which impowers the governour, council, and aſſembly of the province to make laws and ordinances, that money has ever been raiſed upon the people of that province. This clauſe is as follows: " *And you, the ſaid Danvers Oſborn, by and with the conſent of our ſaid council and aſſembly, or the major part of them reſpectively, ſhall have full power and authority to make, conſtitute, and ordain, laws, ſtatutes, and ordinances, for the publick peace, welfare, and good government of our ſaid provinces, and of the people and inhabitants thereof, and ſuch others as ſhall reſort thereto, and for the benefit of us,*

our

our heirs and ſucceſſors: which ſaid laws, ſtatutes, and ordinances are not to be repugnant, but, as near as may be, agreeable to the laws and ſtatutes of this our kingdom of Great-Britain.

The other clauſe in this commiſſion to the governour of New-York, which impowers him, with the conſent of the council of the province, to diſpoſe of the publick monies that ſhall be raiſed in the province by any act of the governour, council, and aſſembly, is in theſe words. "*And our further will and pleaſure is, that all publick monies raiſed, or which ſhall be raiſed, by any act to be hereafter made within our ſaid province and other the territories depending thereon, be iſſued out by warrant from you, by and with the advice and conſent of our council, and diſpoſed of by you for the ſupport of the government, and not otherwiſe.*"

You ſee, by this example, that the king's commiſſions to his governours, in thoſe provinces which have no charters, are, if any thing, more unfavourable to the American claim of an exemption from parliamentary taxation than

the

the charter of the Maſſachuſets bay. For by that charter the governour, council, and aſſembly of the province, are expreſsly impowered to raiſe money upon the inhabitants of it for certain purpoſes, namely, *for the neceſſary defence and ſupport of the government of the ſaid province, and the protection and preſervation of its inhabitants:* whereas in the commiſſions to the governours of the royal provinces there is no clauſe that expreſsly impowers them, with the conſent of their councils and aſſemblies, to raiſe money upon the inhabitants of thoſe provinces for any purpoſe whatſoever, but only a power of making laws and ordinances for the good government of the province, which, by a mere implication, (countenanced by another clauſe concerning the diſpoſal of the monies that ſhall be raiſed in them, and ſupported by a long uſage built upon it,) is ſuppoſed to contain in it the power of raiſing money on the people for the ſupport of the governments of thoſe provinces, and for no other purpoſes whatſoever. Surely ſuch a commiſſion can never be thought by impartial people to be an excluſion of the parliament of Great-Britain from exerciſing the power of laying taxes on the

the inhabitants of thoſe provinces, if upon other grounds the parliament is legally intitled to ſuch a power.

FRENCHMAN.

I ſee plainly, that the king's commiſſions are by no means favourable to the claim of the Americans to be exempt from parliamentary taxation, and that the provinces governed under theſe commiſſions, (which, I think, you ſome time ago called *Royal governments*,) have as little pretence, from the words of them, to demand ſuch an exemption, as the charter-governments have to demand it in conſequence of the privileges of their charters; or, (if there is any difference between them,) they have rather leſs pretence to demand ſuch an exemption than thoſe charter-governments. Yet, methinks, that, though neither the charters nor commiſſions, under which the American provinces are governed, do, in their natural and true conſtruction, convey to the inhabitants of thoſe provinces an exemption from parliamentary taxation, yet, if, during the courſe of fourſcore, or an hundred, years, they have been ſuppoſed, though falſely, to have conveyed to them ſuch an exemption; and, in purſuance

Of the uſage with reſpect to the taxation of the American colonies.

purſuance of ſuch a miſtaken interpretation of them, the Americans have been permitted to raiſe money by their reſpective aſſemblies upon the people for all ſorts of purpoſes, (as well thoſe for which their charters do not impower them to raiſe money, as thoſe for which they do impower them to raiſe it,) and the parliament of Great-Britain has always forborn to raiſe money upon them for any purpoſe whatſoever during ſo long a courſe of years; I ſay, if this is the caſe, I ſhould think it ſomewhat harſh, if not unjuſt, in the parliament, (after ſo long a forbearance of the exerciſe of its own right to tax them, and a tacit acquieſcence in the exerciſe of a ſuppoſed right in the Americans to tax themſelves in all caſes,) to break through this indulgent uſage and begin a practice of taxing them by act of parliament. I ſhould therefore be glad to know how the uſage has been in that reſpect.

ENGLISHMAN.

You touch upon a ſtring much more favourable to the pretenſions of the Americans than any of the clauſes that are to be found in the charters or commiſſions, under which they have been governed. But the fact is not intirely as you ſuppoſe it. For the Americans, I believe,

I believe, have not been taxed at all towards the general purpoſes above-mentioned, ſuch as the ſupport of the king's houſhold, the maintenance of the fleet or the army, the repairs of publick fortreſſes, and the like, having been thought to be too poor before the end of the late war to contribute towards theſe expenſive eſtabliſhments. And all the money that has been hitherto raiſed in the American colonies, I mean, before the late peace, has been raiſed by their reſpective aſſemblies for the uſe of the colonies in which it has been raiſed; agreeably to the power given to them in the charters of Maryland and Maſſachuſet's bay to raiſe money for ſuch local purpoſes, and which has been ſuppoſed to be contained under the power of making laws and ordinances which is given to the aſſemblies of Connecticut and Rhode Iſland by their reſpective charters, and to the other American provinces by the king's commiſſions to his governours. When I ſay that all the money that has been raiſed in the American provinces before the late peace has been raiſed by their reſpective aſſemblies, I ought to make an exception of duties on goods imported into thoſe provinces. For ſuch duties have in

a few inſtances been impoſed by the parliament of Great-Britain at different times before the peace, and paid by the Americans in obedience to that authority. But then it is likewiſe true that theſe duties have been impoſed rather with a view to regulate the trade of America in the manner the Britiſh parliament has thought fit, than for the ſake of the revenue they have produced, which has been but trifling. It is therefore upon the whole *ſubſtantially* true, that no money has been raiſed upon the people of America before the late peace by the authority of the Britiſh parliament, nor by any other authority but that of the aſſemblies of the ſeveral colonies in which it has been raiſed: and it is likewiſe true that the money that has been raiſed in America before that time, has been raiſed only for the local purpoſes of the provinces in which it has been raiſed, and not for the ſupport of the king's civil liſt, or the maintenance of the army or navy, or fortreſſes out of the iſland of Great-Britain, or other general objects of the publick expences of the nation. This is the hiſtory of the uſage upon this ſubject, as far as I am acquainted with it; which does not come up quite to what you ſeem to have

have conceived it to be, namely, a regular uſage of the Americans to tax themſelves for all ſorts of purpoſes whatſoever, the general purpoſes juſt now mentioned as well as the local purpoſes of their reſpective provinces.

FRENCHMAN.

According to this account of the uſage that has prevailed upon this ſubject, I am inclined to think, that the Americans have no more pretence to claim an exemption from parliamentary taxation, for thoſe general purpoſes you have juſt now mentioned, from long uſage than from either the letter or true meaning of their charters, or the royal commiſſions under which they are governed; both which we have already examined and found to be inſufficient to ſupport ſuch a pretenſion. But with reſpect to the local purpoſes of their reſpective provinces, I ſhould incline to a different opinion. For, as the charters and commiſſions impower the aſſemblies of the ſeveral provinces, either expreſsly or by implication, to raiſe money in their reſpective provinces for thoſe local purpoſes, and they have uniformly been permitted to do ſo ever ſince their firſt eſtabliſhments

Difference between the impoſition of taxes for general purpoſes and taxes for provincial purpoſes.

without any interference of the parliament of Great-Britain, or their ever exerciſing during this long ſeries of years a concurrent juriſdiction with the aſſemblies in the raiſing money upon the Americans for thoſe purpoſes, I cannot but look upon this long forbearance of the Britiſh parliament to exerciſe its authority upon this ſubject, and their acquieſcence in the exerciſe of this power by the American aſſemblies, as amounting, in reaſon and equity, if not in ſtrict law, to a renunciation of its authority of taxing the Americans for theſe purpoſes, and a transfer of it to the American aſſemblies. Don't you enter into the diſtinction I make between the two caſes?

ENGLISHMAN.

I do enter into it very clearly: and I think it very well founded. And I had even thought of it myſelf before you mentioned it; though it has not been much attended to by the writers on either ſide of this controverſy. The zeal of the writers in ſupport of the authority of Great-Britain has made them inſiſt upon the right of the parliament to tax the Americans in all caſes and for all purpoſes whatſoever,

ever, even for the ſupport of their reſpective domeſtick governments: and that of the writers on the American ſide of the queſtion has made them deny the right of the parliament to tax them in any caſe, or for any purpoſe whatſoever, even towards thoſe general expences of the Britiſh empire, towards which they have not hitherto been taxed at all, and towards which the charters and the royal commiſſions do not authorize their aſſemblies to tax them. But the truth often lies between two extream opinions; and perhaps it does ſo in this caſe. However there is another argument made uſe of by the Americans in this controverſy, (and which they conſider as the ſtrongeſt argument in their favour,) which, if it be a good one, militates equally againſt the right of the Britiſh parliament to tax them for thoſe general purpoſes above-mentioned, and for the local purpoſes of their reſpective governments.

Of the grand argument of the Americans againſt taxation by the Britiſh parliament

FRENCHMAN.

Pray, what is this favourite argument, this great American Goliath, by which the Americans think they can maintain a total exemption from the authority of the Britiſh parliament

ment to tax them in any caſe whatſoever? I am impatient to hear this great argument: for at preſent it ſeems to me that this is carrying their claim to an unreaſonable length, and has a great tendency to exempt them from bearing their proportional ſhare of thoſe general burthens of the Britiſh empire, which you juſt now mentioned, and which relate equally to all the dominions of the crown.

ENGLISHMAN.

The want of elected repreſentatives in the parliament of Great-Britain.

This grand argument is founded on their not having members choſen by themſelves to repreſent them in the parliament of Great-Britain. They ſay that the right of the members of the Britiſh Houſe of Commons to grant the people's money to the crown (for that, as I obſerved before, is the form in which acts of parliament for raiſing money on the people are paſſed,) ariſes merely from their being the repreſentatives of the people, choſen by them for the purpoſe of granting money to the crown, for publick uſes, in their name, and as their agents and attornies: and conſequently that, as they are not choſen by the inhabitants of America, they cannot be conſidered as their

agents

agents and attornies in this reſpect, and cannot grant away their money. This is the great argument of the Americans againſt the right of the Britiſh parliament to impoſe taxes on them.

FRENCHMAN.

That maxim that the Houſe of Commons in England grant the people's money only becauſe they are their repreſentatives, or choſen deputies, can hardly, I preſume, be true in its full extent. For if it was, only thoſe who had votes in the election of members of parliament would be liable to pay the taxes there impoſed, they being the only perſons who have actual deputies, or repreſentatives, in the parliament, that have been choſen by themſelves. Yet I have always heard that the taxes in England are general, and extend to all the inhabitants of it, the non-electors as well as the electors of members of parliament, and that the former are a very great part of the people. Pray, Is this the caſe? or are all the men in Great-Britain that are come to the age of majority, (which in England I underſtand to be the age of twenty-one years,) intitled to vote in the elections of members of parliament?

Of the non-electors of members of parliament in England.

ENG-

ENGLISHMAN.

By no means. The non-electors are at leaſt ſix times as many as the electors. The whole number of people in Great-Britain is ſuppoſed to be about ſix millions. Of theſe we may well ſuppoſe a million and a half to be males above the age of twenty-one years. And the number of perſons intitled to vote in the elections of members of parliament in the whole iſland is only between two and three hundred thouſand. Yet all the people are bound to pay the taxes impoſed by the parliament, non-electors as well as electors. You are therefore quite right in your obſervation upon the aforeſaid maxim. It certainly is not true in the ſtrict ſenſe of the words, that only thoſe who are repreſented in parliament by members of their own chuſing are liable to be taxed by the authority of parliament; but it muſt be taken, like all other maxims of law or politicks, with a certain reaſonable degree of latitude: and then, I think, it muſt be allowed to be true, becauſe all taxes in England are certainly conſidered as free gifts of the people to the king, or great executive magiſtrate of the ſtate, which

which are made on great and ſudden emergences that have been ſet forth to them by the king, and have appeared to them to require an extraordinary ſupply of money for the protection and advantage of the whole community.

FRENCHMAN.

If once we admit of a latitude in the interpretation of this great maxim concerning taxation, and allow that five ſixths of the male inhabitants of Great-Britain, who are come to the age of maturity, may be rightfully taxed by a houſe of commons choſen by the remaining ſixth part of thoſe inhabitants, (which I ſee plainly to be a reaſonable, or rather a neceſſary, manner of underſtanding it,) it may be difficult perhaps for the Americans to diſtinguiſh their condition from that of the large body of non-electors in Great-Britain, and to aſſign a reaſon why they ſhould not be ſubject to the parliament's power of taxation as well as thoſe non-electors. I ſhould be glad to know, what they alledge for themſelves in this reſpect.

ENGLISHMAN.

Argu-ments uſed by the Americans to diſtin-guiſh their caſe from that of the non-elect-ing inha-bitants of Great-Britain.

They are a good deal puzzled to get over this difficulty: yet are not without plauſible reaſons in favour of the diſtinction they contend for. They readily allow that the maxim above-mentioned concerning the right of taxation muſt be underſtood with the latitude we have here given it with reſpect to the inhabitants of Great-Britain, ſo as to make the non-electors liable to pay the taxes impoſed by act of parliament as well as the electors; ſince even in their own provinces a ſimilar extenſion muſt be given to it in order to make all the inhabitants of them liable to pay the taxes impoſed by their aſſemblies, there being no government, as I believe, in all America of ſo very popular a conſtitution as to allow to all the male inhabitants of the age of twenty-one years, who live under it, a right to vote for members of the aſſembly. This latitude therefore they acknowledge to be reaſonable and neceſſary. But they diſtinguiſh their own caſe from that of the non-electing inhabitants of Great-Britain by the two following circumſtances.

ſtances. In the firſt place they obſerve that the non-electing inhabitants of Great-Britain are thoſe who are not poſſeſſed of any freehold land, or who have ſo little as not to be worth taking notice of. And this is certainly true, the law upon this ſubject being that every man in England who poſſeſſes a piece of freehold land either for life or to him and his heirs for ever, that is worth only forty ſhillings ſterling per annum, has a right to vote at the election of a member of parliament for the county in which his land is ſituated. And beſides theſe freeholders, who vote for the county-members, there are a great number of perſons who have no freehold land, but yet have votes for the members of ſome city or borough, upon ſome other account, ſuch as their being freemen, or burgeſſes of thoſe towns, of which many are places of great trade. " Now, ſay the Americans, ſince all your freeholders of land in England have a right to ſend members to parliament, and a great many other inhabitants of England, (who have no freeholds, but are concerned in trade in ſome way or other,) have alſo a right to ſend members to parliament to repreſent the towns in which they

Their firſt argument, derived from their being owners of freehold lands.

reſide, it is but juſt that ſuch of us Americans as are poſſeſſed of freehold land in America of the yearly value of forty ſhillings, and the inhabitants or burgeſſes of our trading towns, (which anſwer to your parliamentary boroughs in England,) ſhould alſo have the privilege of ſending members to the Britiſh parliament to protect and promote our intereſts in it, as the preſent members do thoſe of their Britiſh conſtituents. We do not contend that every man in America ſhould have a ſhare in conſtituting the legiſlature by which we are to be bound, knowing that to be almoſt impoſſible: but we contend that this right ſhould be allowed to thoſe perſons in America who are in the ſame condition and circumſtances with thoſe inhabitants of Great-Britain in whom this right is veſted. And till this is done, the Britiſh parliament muſt be conſidered as a foreign legiſlature with reſpect to us, and we are not bound in law to pay the taxes which it ſhall impoſe upon us." This is the firſt and principal circumſtance by which the Americans diſtinguiſh their caſe from that of the non-electing inhabitants of Great-Britain.

FRENCH-

FRENCHMAN.

This way of reaſoning ſeems to me to be rather ſpecious than juſt; ſince it is not a neceſſary conſequence of the king's making grants of new freehold lands in America, that they ſhould be accompanied with all the ſame conditions and privileges as belong to the old freehold lands in England. They may, as I conceive, be ſubject to greater quit-rents, or to other burthens not annexed to the old lands, without the leaſt injuſtice, if the king, who grants them, and the grantees, who accept them from him, agree, at the time they are granted, that they ſhall be ſo. And therefore they may be inferiour to the old freehold lands in England with reſpect to that privilege of voting in the election of members of the Britiſh parliament, if it has pleaſed the king and his grantees to make them ſo. The only queſtion ſeems to be what was the intention of the contracting parties at the time of making theſe grants of freehold land in America; that is, whether it was their intention that the grantees of thoſe lands ſhould ſend members to the Britiſh parliament, or not; and, in the latter caſe,

Remarks on the ſaid argument.

caſe, whether it was their intention that they ſhould be exempt from parliamentary taxation. And I think it is plain from what you mentioned of the charters of ſeveral of the provinces, and particularly the charter of Penſylvania, that there was no intention in any of the ſaid parties either that the freeholders of America ſhould ever ſend members to the Britiſh parliament, or that they ſhould be exempt from paying the taxes impoſed by it on account of their not doing ſo. For none of the charters make the leaſt mention of ſending members to the Britiſh parliament, nor yet of their being exempt from parliamentary taxation on account of their not ſending any: but, on the contrary, the charter of Penſylvania expreſsly mentions parliamentary taxation as an exertion of authority to which the inhabitants of that province will ſtill continue liable in all caſes, in common with their fellow-ſubjects that ſhall be reſident in England; and the other charters, by giving the aſſemblies of their reſpective provinces only a partial power of taxation for the local purpoſes of thoſe provinces, ſeem to have reſerved to the parliament of Great-Britain their original and antecedent right of taxing

thoſe

thoſe provinces for the maintenance of the king's houſhold, the fleet and the army, and the other general purpoſes of the Britiſh empire. There ſeems therefore to be no reaſon for ſuppoſing that it was the intention of either the kings of England, or the original grantees of freehold lands in America, or, in general, of the ſettlers in America, either that the American freeholders ſhould ſend members to the Britiſh parliament, or that they ſhould be exempt from parliamentary taxation on account of their not ſending any. And therefore I am apt to think that they have no right either to ſend members to parliament, or to be exempt from its power of taxation, ariſing from their poſſeſſion of freehold lands, whatever they may have upon other grounds with which I have not yet been made acquainted.

ENGLISHMAN.

I think you conceive of this matter juſtly. The rights ariſing from the poſſeſſion of freehold lands held by grant from the crown can be derived from no other ſource but the will of the two contracting parties, the grantor and the grantee, at the time of making the contract.

tract. Nor can I ſee any thing abſurd or unjuſt in making a grant of freehold land unaccompanied with the privilege of voting for a member of parliament, any more than in granting it with that privilege. The whole, in this as in other contracts, depends on the terms of the contract, that is, on the ſtipulations of the contracting parties. The king might, if he had pleaſed, have given the Engliſh ſettlers in America no freeholds at all, but only have leaſed portions of land to them, to be held from three years to three years, ſo that at the end of every three years the king ſhould have had a right to turn them out of the land, and let it to other perſons at new and higher rents. I confeſs indeed it is hardly poſſible that this caſe ſhould ever be realized in North America, becauſe uncleared lands in this country are not worth accepting and cultivating upon ſuch precarious terms. But in the rich ſugar lands in the Weſt-Indies ſuch a plan might perhaps have been carried into execution, if the kings of England had thought proper to purſue it; though I admit that it would have been in every country a narrow and illiberal, and, upon the whole, an impolitick, ſyſtem. But yet we

may

may well enough ſuppoſe it for a moment to have been adopted, for the ſake of argument, and in order to illuſtrate what you have advanced concerning the rights derived from the contracts concerning lands; namely, that they can be only ſuch as the contracting parties have thought fit to make them. I ſay then, that, if the Americans had accepted lands of the kings of England upon thoſe precarious conditions, of holding them only from three years to three years, and then being obliged either to quit them or renew their leaſes of them upon ſuch terms as the king ſhould then direct, ſuch a tenure would have been legal and binding upon them as well as the more beneficial tenure by which they now enjoy them. And in that caſe, as they would not have been freeholders, they could not have diſtinguiſhed themſelves from the non-electing inhabitants of Great-Britain, with reſpect to the right of voting in the elections of members of parliament, by this firſt circumſtance of holding freehold lands, which, as I ſaid before, they make uſe of for that purpoſe. Now, ſince the king might have granted them the lands of America upon theſe precarious leaſes

of three years, and ſuch leaſes would have been legal and valid, it ſeems reaſonable to conclude that the king was in like manner at liberty to grant them the ſame lands as freeholds (or upon certain fixt and unchangeable conditions,) without ſuperadding to their poſſeſſion of them the privilege of ſending members to the Britiſh parliament, which belonged to the old freehold lands in England. And this I take to have been really the caſe with reſpect to the freehold lands of America.

FRENCHMAN.

This ſeems to me to be ſo evidently true, after all that you have ſaid concerning the charters of America, and particularly that of Penſylvania, that I can hardly think that any unprejudiced perſon can doubt about it. At leaſt I will venture to ſay that there are few propoſitions concerning the civil rights of mankind, (in caſes where they are not provided for and aſcertained by clear and expreſs words, but are to be collected by reaſoning and inference from other circumſtances,) that are more evident than this is. And therefore I ſhall lay it down as an acknowledged truth, during the reſt

reſt of our diſcourſe upon this ſubject, that, at the time of granting the ſeveral charters in America, there was no intention, either in the king or the American ſettlers, either that the poſſeſſors of freehold land in America ſhould ſend members to the parliament of Great-Britain, or that they ſhould be exempt from parliamentary taxation on account of their not ſending any. And therefore, it appears to me that thoſe poſſeſſors of freehold land can have no ſtrict right to ſend members to the parliament in conſequence of the poſſeſſion of thoſe freeholds, becauſe that would be altering in their own favour the original conditions on which they became poſſeſſed of them.

The ſecond argument uſed by the Americans to diſtinguiſh their caſe from that of the non-electing inhabitants of Great-Britain.

But you ſaid ſome time ago, that there was another circumſtance by which the Americans diſtinguiſhed their condition from that of the non-electing inhabitants of Great-Britain, ſo as to ground a claim upon it to be exempted from the obligation of paying the taxes impoſed by the Britiſh parliament, to which thoſe Britiſh non-electors were confeſſedly ſubject. Pray, what is this ſecond circumſtance?

It is their abſence from Great-Britain. They ſay that the non-electing inhabitants of Great-Britain are ſo intermixed and connected with thoſe who have votes for members of parliament, and even with the members of parliament themſelves, that they have no reaſon to apprehend that they ſhall ever be made to pay any taxes impoſed by the parliament, but thoſe which will equally be levied upon their neighbours that have the privilege of electing members, and the members themſelves that are elected:----that therefore they ſuffer no hardſhip, or inconvenience, from their want of the privilege of voting for members of parliament; and that, if any of them ſhould think they did ſuffer any inconvenience from that circumſtance, it was eaſy for them to find a remedy for this grievance by purchaſing a ſmall piece of freehold land worth only forty ſhillings a year, which would give them a vote for the members of the county in which it lies;---- that forty ſhillings a year is ſo very low a qualification, that it is in the power of almoſt every body to procure it; and that the excluſion

cluſion of thoſe who are too poor to procure it from the right of voting in elections of members of parliament, is little more than an excluſion of thoſe perſons to whom taxation is almoſt a matter of indifference on account of their want of property to be the object of it:----and therefore, ſay the Americans, the non-electing inhabitants of Great-Britain are juſtly liable to pay the taxes impoſed by the Britiſh parliament. "But, ſay they, it is far otherwiſe with us. We are not intermixed with the electors of the Britiſh parliament, and with the members themſelves that are elected to it, ſo as to be taxed by them only when they tax themſelves, and in the ſame degree; but we are totally ſeparated from them by an ocean of 3000 miles in breadth. From this ſeparation and immenſe diſtance from them, it would follow that, if we were liable to be taxed by the Britiſh parliament, we ſhould be taxed by them as a ſeparate body of people, and not in common with themſelves and the other inhabitants of Great-Britain: and the ſame attention to their own intereſt, which makes the members of parliament cautious not to impoſe unneceſſary or oppreſſive taxes

in

in Great-Britain, where they themſelves and their electors would bear a part of the burthen of them, would induce them to lay very heavy taxes on us Americans, (with whom they have no immediate common intereſts,) in order to exonerate themſelves. And thus we ſhould become (if this right of the parliament were once allowed,) the beaſts of burthen of the whole Britiſh empire, or (as the continental congreſs expreſſes it in one of their publick papers,) hewers of wood and drawers of water for our fellow-ſubjects in Great-Britain. It would therefore be unjuſt, and conſequently is unlawful, for the Britiſh parliament to tax us." This is the ſecond circumſtance by which the Americans endeavour to diſtinguiſh their condition from that of the non-electing inhabitants of Great-Britain. I believe I have ſtated it as ſtrongly as their own writers do. You will judge what ſtreſs ought to be laid upon it in determining the preſent controverſy.

FRENCHMAN.

Remarks on the ſaid ſecond argument.

It appears to me to be rather an argument of policy, or expedience, than of law, being wholly founded on an apprehenſion of the abuſe

abuſe which the parliament might make of the power of impoſing taxes on the Americans, if they were allowed to exerciſe it. The apprehenſion of the abuſe of any civil power is no argument againſt its legality, even when ſuch apprehenſion is well-grounded; but is only a ground for endeavouring to make ſome new regulations of it by which ſuch abuſe of it may be prevented. In order to prove the legality or illegality of any power in civil ſociety, we muſt inquire what was the original compact between the parties by whom, and the parties over whom, it is to be exerciſed. This compact, whether expreſs or implied, appears to me to be the only rule by which a queſtion of this ſort can be decided. If the compact is expreſs, the deciſion of the queſtion will be the more eaſy: if it is only implied, it muſt be collected from a variety of circumſtances; ſuch as, 1ſt, the practice of the parties with reſpect to the power in queſtion; or, 2dly, their claims at different periods, and the acknowledgement of ſuch claims by the other party, or their ſilence with reſpect to them, which may appear to be an acquieſcence in them; or, 3dly, the exerciſe of ſimilar powers

by

by the party which claims the power over the other party; or, 4thly, the antecedent condition and relation of the two parties to each other before the caſe, concerning which the queſtion ariſes, exiſted; and other the like circumſtances, which tend to diſcover and aſcertain the intention of the contending parties at the time when the caſe, concerning which the queſtion has ariſen, began to exiſt. For all civil powers are ultimately founded on compacts; and every *queſtion of right* will, if traced to its fountain-head, appear to be in reality *a queſtion of fact*, that is, an inquiry concerning an ancient fact, to wit, the intention of the parties between whom the queſtion ariſes, or of their anceſtors and predeceſſors, at the time when the caſe, concerning which it has ariſen, began to exiſt. And every argument that does not tend to clear up and aſcertain that ancient matter of fact, is in my opinion foreign to the ſubject. I therefore conſider the laſt argument of the Americans in ſupport of their claim of an exemption from parliamentary taxation, (which they build upon the danger of the parliament's abuſing ſuch a power of taxing them, if it were allowed them,)

as of no manner of weight with reſpect to the queſtion concerning the right of parliament in this reſpect: and conſequently, if theſe are all the arguments of the Americans in ſupport of their claim of the exemption aforeſaid, I muſt needs conclude that they are not intitled to it, but that the parliament of Great-Britain has a right to impoſe taxes on them as well as on the inhabitants of Great-Britain, and eſpecially for the ſupport of the king's houſhold, the army, navy, ordnance, and foreign fortreſſes, and the like general purpoſes that relate to the whole Britiſh empire, to which their aſſemblies are not by their charters and commiſſions authorized to tax the inhabitants of their reſpective provinces, and to which they have not hitherto been taxed at all. But perhaps I am too haſty in forming this judgement; and the Americans may have ſome other arguments in ſupport of their claim of this exemption, which you have not yet ſtated to me; though I do not recollect that you mentioned any other in the beginning of our converſation upon this queſtion, when you enumerated the ſeveral grounds upon which they maintained this controverſy. If they have any other argu-

ments, I beg you would now inform me of them, that I may be thoroughly acquainted with the ſubject in its whole extent.

ENGLISHMAN.

I know of no arguments that are brought by the Americans in ſupport of their claim to that exemption, but thoſe which we have been examining: and thoſe I have ſtated as fully and as ſtrongly as I could, that you might know and feel the whole of what they have to offer upon this ſubject. And I am not ſorry to find that you agree with me in thinking that that whole is inſufficient to ſupport their claim. We muſt not however forget the diſtinction which you ſome time ago ſuggeſted between taxes raiſed in the American provinces for the defence and ſupport of the provinces in which they are raiſed, and taxes raiſed in them for the maintenance of the king's houſhold, the fleet and the army, and other ſuch general purpoſes that relate to the whole Britiſh empire. The former taxes may be lawfully raiſed by the aſſemblies of the ſeveral provinces by virtue of the charters and commiſſions under which they are governed, and always have been

A diſtinction between provincial taxes and taxesrais'd for the general purpoſes of the Britiſh empire.

been ſo raiſed, without any interference of the parliament of Great-Britain; though, perhaps, the ſaid parliament may be ſuppoſed, in ſtrictneſs of law, to have had a concurrent right with thoſe aſſemblies to impoſe them: but the latter ſort of taxes cannot legally be raiſed by virtue of thoſe charters and commiſſions, and, in fact, have not hitherto been raiſed at all. The former therefore ought, in point of equity and prudence, (if not of ſtrict law,) to be left to the American aſſemblies, to be raiſed by them as heretofore, in purſuance of the powers contained in their charters and commiſſions; but the latter ought to be raiſed by acts of the Britiſh parliament, or, at leaſt, may be ſo raiſed without any breach either of the charters of the American colonies or of the uſage that has prevailed in them upon this ſubject.

The former ought to be rais'd only by the American aſſemblies.

FRENCHMAN.

I am glad you agree with me in this diſtinction, and acknowledge that it would be highly inexpedient, if not unjuſt, for the Britiſh parliament to impoſe the domeſtick taxes of the ſeveral provinces of America, which have always hitherto been raiſed by their own aſſem-

Utility of the American aſſemblies, with the power of impoſing the provincial taxes, to the inhabitants of their reſpective provinces.

blies. For this is a matter of great importance, as I conceive, to the welfare and happineſs of thoſe colonies, being the principal means they have of ſecuring themſelves from the oppreſſion of their governours and other officers of the crown, and of obtaining a redreſs of the grievances under which they may at any time labour. The governours of provinces are generally men who have no eſtates in the provinces they go to govern, nor any natural connections with the people of them, that ſhould make them take a hearty concern in their welfare: and they often are perſons who have their fortunes to make, having either never had any eſtate at all even in England, or, if they have had one, having run it out by their luxury and extravagance, after which, by the intereſt of the noblemen and gentlemen of power in whoſe company they have ſpent their fortunes, they are ſent to the American provinces, in the important ſtations of governours, to repair them. Such perſons will, in all probability, be greedy of money, and diſpoſed to take the ſpeedieſt methods of acquiring it: and it is hardly to be doubted that, if there was no check or controul of their authority in the

provinces

provinces themſelves over which they preſide, they would make uſe of the great powers veſted in them by their commiſſions to exact money from the people in a variety of ways: and complaints to England for redreſs of ſuch oppreſſions would be too expenſive and tedious to be made by the greater part of thoſe who would have ſuffered by them; and when made, would often, (either from the difficulty of tranſmitting acroſs the Atlantick ocean ſufficient evidence to ſupport the charges, or by the favour and partiality of the great men before whom they would be brought, who would many of them, perhaps, be old friends and companions of the governour complained of,) meet with no ſucceſs. But by means of the aſſemblies of the people and their power of granting or refuſing money for the ſervice of the province, ſuch oppreſſions are properly taken notice of and often meet with due redreſs; and, if they have been committed by the governours themſelves, and have been great and frequent, will be tranſmitted to the king himſelf with ſo much weight by an addreſs of the aſſembly as to induce his Majeſty to remove the governour from his office. And the apprehenſion

henſion of theſe conſequences will deter the officers of government from being guilty of the oppreſſions that would give occaſion to them. Such, I conceive, are the beneficial conſequences reſulting to the American provinces from the eſtabliſhment of aſſemblies of the people in them, and the powers veſted in thoſe aſſemblies of raiſing money on the inhabitants of them for the purpoſes of their domeſtick government: all which would intirely ceaſe, if the parliament of Great-Britain ſhould, (by virtue of its antient and original authority over the firſt ſettlers in America,) interfere in this matter, and impoſe theſe domeſtick taxes in the ſeveral colonies, inſtead of leaving them to be raiſed, as heretofore, by their reſpective aſſemblies. But this is no objection to the parliament's impoſing thoſe other taxes on the Americans, which relate to the maintenance of the army and navy and the other general purpoſes of the Britiſh empire. Theſe, I ſhould think, might be impoſed by that authority with little, or no, danger to the liberties of the Americans, ſo long as the former were left to their aſſemblies.

Expedience of impoſing taxes for general purpoſes on the inhabitants of America by the authority of the Britiſh parliament.

ENGLISH-

ENGLISHMAN.

I think ſo too: and, if I were an inhabitant of one of the Engliſh provinces of America, in which aſſemblies are eſtabliſhed, I ſhould not, (if I know my own mind) be at all averſe to being taxed by the parliament of Great-Britain to any of thoſe general purpoſes; I mean, if the taxes required of me were moderate and reaſonable and proportional to my fortune: for heavy and unreaſonable taxes are always oppreſſive and odious, and have a tendency to excite a reſiſtance from thoſe who are to pay them, by whatever authority they are impoſed, But for a moderate tax laid upon a proper ſubject, and appropriated, we will ſay, to the maintenance of the royal navy of Great-Britain, by which our coaſts and our trading veſſels are protected, I proteſt I ſhould be very willing to pay it, though impoſed by the parliament of Great-Britain in which I had no ſpecial, or choſen, repreſentative. And I ſhould be the more ready to ſubmit to ſuch a tax from a ſenſe of the impracticability of collecting a general tax from all the colonies in America by any other method, and of the conſequent neceſſity

Impracticability of raiſing thoſe taxes in any other way.

neceſſity of having recourſe to the authority of the Britiſh parliament for that purpoſe. For, according to the preſent conſtitution of the Britiſh government both in the iſland, or kingdom, of Great-Britain, and in the American provinces, there are but two authorities by which it would be poſſible to levy ſuch a tax, which are thoſe of the American aſſemblies and of the Britiſh parliament. To levy it by the authority of the ſeveral American aſſemblies would be extreamly difficult, if not totally impracticable. For, as it would be a tax that related to a matter in which the American colonies were all concerned, (the ſupport of the royal navy of Great-Britain and the defence of the coaſts and trade of America,) it would be juſt and reaſonable that they ſhould all contribute to it: and *that* it is probable ſo many different aſſemblies could never be brought to do;----not to mention the former obſervation of the want of a legal authority in the aſſemblies, by the charters and commiſſions of the American provinces, to lay taxes for theſe general purpoſes. It can only be levied therefore (if it is to be levied at all) by the authority of the Britiſh parliament. The difficulty,

or

or rather impracticability, of procuring a concurrence of opinion and action between all the different assemblies of the American colonies in any common cause, or concern, was experienced about the beginning of the late war, when the Americans complained of the encroachments made by the French of Canada upon the king's territories on the river Ohio and in other places. No union could be procured among them: but, while one colony raised troops to repel the encroachments of the enemy, another, that was less exposed to danger from them, refused to raise any: and the French gained considerable advantages in the beginning of the war by means of this want of union among the colonies. This was at that time notorious to all the world: and the English Americans themselves had so strong a sense of the dangers they were likely to be exposed to from this circumstance, that, in July, 1754, when a war with France was apprehended, commissioners were appointed by several of the colonies, who met at Albany on Hudson's river in the province of New-York, to form a plan of union for their common defence. The plan they agreed to was,

Experience of the said impracticability in the year 1754.

Opinion of the English Americans upon this subject at that time.

in ſhort, this; " That a grand council ſhould be formed of members to be choſen by the aſſemblies of the people in all the Engliſh colonies: and that this council, together with a governour-general, to be appointed by the crown, ſhould be impowered to make general laws to raiſe money in all the colonies for the defence of the whole." This plan was not approved by the government in England, and ſo was not carried into execution. But the propoſal of it ſhews the opinion of the Americans themſelves to have been at that time, that, in order to lay taxes effectually upon all the colonies towards any general plan of defence, or other object relating to them all, it was neceſſary to have recourſe to the authority of ſome *one* aſſembly, or legiſlature, properly conſtituted and impowered to exerciſe ſo great a truſt, and not to depend on the concurrence of the ſeveral provincial aſſemblies. It is only to ſhew that this was the opinion of the Americans at that time, that I have now mentioned this plan of a grand council, without meaning to give any opinion concerning the plan itſelf. Whether ſuch a grand council, or the parliament of Great-Britain, is the fitter legiſlature,

in

in point of expedience and policy, to be inveſted with this power of raiſing theſe general taxes upon all America, I will not pretend to determine. I will only ſay that the parliament of Great-Britain ſubſiſts already, and has done ſo for ſeveral centuries, as the great legiſlature of the Britiſh nation throughout all the dominions of the crown, without any exception of the Engliſh colonies in America, (as we have ſeen in the courſe of our examination of the reaſons alledged by the Americans in ſupport of their claim to an exemption from its juriſdiction,) and that the aforeſaid grand council has not yet been eſtabliſhed, and, if it ever ſhould be eſtabliſhed, would be a great innovation in the Britiſh government;----and that great innovations are always dangerous. But, till ſuch a grand council is eſtabliſhed, the parliament of Great-Britain is the only ſingle legiſlature by which ſuch general taxes can be legally impoſed on the Americans, and therefore, in my opinion, is the legiſlature by which they ought to be impoſed.

FRENCHMAN.

I ſee plainly the neceſſity of having recourſe to ſome one legiſlature for the levying of any

general tax that is to be paid by all the colonies of America. And that legiſlature in the preſent ſtate of things, without making ſome new eſtabliſhment for the purpoſe, can be no other than the Britiſh parliament. And this neceſſity ought, certainly, to be an additional reaſon with the Americans for ſubmitting to its authority with reſpect to thoſe general taxes, over and above the legal obligation under which they lie to do ſo, from their inability to make out their claim to an exemption from its juriſdiction. But you ſome time ago intimated that they pretend to be mightily afraid of being grievouſly oppreſſed by taxes laid by the Britiſh parliament, if they ſhould ever acknowledge its authority to impoſe them. Pray, do you imagine there would be any great danger of ſuch oppreſſion?

ENGLISHMAN.

Reaſons for thinking that the Britiſh parliament, if its right to tax the Americans were acknowledged, would not exerciſe it oppreſſively.

I do not think there would be any ſuch danger: and for theſe reaſons. In the firſt place, though the Americans have no actual repreſentatives in the Britiſh parliament, and do not live in the ſame country with the perſons who elect the members of it, as the Britiſh non-

non-electors do, yet there is a very great community of interests between them and the inhabitants of Great-Britain, arising from their trade, by which a great number of people in Britain, both electors of members of parliament and others, are deeply interested in preventing them from being oppressed. The Americans have the greatest part of their cloathing, and all their arms, and implements of husbandry and the mechanick trades, and other hard-ware, and a variety of other commodities, from Great-Britain, to the amount of some millions of pounds sterling in a year. This employs a considerable number of merchants in England, and a very great number of manufacturers who prepare the goods which are exported to America. All these persons are bound by a regard to their own interest, to use their endeavours to prevent the Americans from being unreasonably burthened with taxes: for, if they should be so burthened, they must in consequence retrench some of their expences, and consequently would buy fewer of the goods which these manufacturers and merchants supply them with; by which means the business and profits of these merchants and manufacturers would

A great part of the inhabitants of Great-Britain have a common interest with the Americans, and would therefore be vigilant to prevent their being oppressed.

would be diminiſhed. It is natural therefore to ſuppoſe that theſe merchants and manufacturers would do every thing in their power to prevent the Britiſh parliament from impoveriſhing their cuſtomers, the Americans, by unneceſſary or oppreſſive taxes. And, by the conſtitution of the Britiſh Houſe of Commons, the mercantile part of the nation has a very great influence in it. This connection and community of intereſts between the Americans and the merchants and manufacturers of Great-Britain affords a ſecurity to the Americans againſt an oppreſſive taxation by the Britiſh parliament, which, (though not quite ſo great in degree,) is in its nature ſimilar to that of the non-electing inhabitants of Great-Britain: for neither of them can be taxed by parliament without a concomitant taxation, either direct or indirect, of thoſe inhabitants of Great-Britain who have the right of electing members of parliament: in the caſe of a tax upon the non-electing inhabitants of Britain, the electors pay the ſame tax as they; and in the caſe of a tax upon the Americans, the merchants and manufacturers of Britain, who ſupply them with goods, would be ſubſtantially, though indirectly, impoveriſhed

poverifhed by the tax, by means of the diminution of their buſineſs and their profits in conſequence of the reduction of expence which the tax would neceſſarily produce in their American cuſtomers. This connection and community of intereſts with the merchants and manufacturers of Great-Britain would, as I conceive, operate very powerfully in protecting the Americans from being over-burthened by taxes laid by the parliament of Great-Britain, if their authority to do ſo had been recognized by the Americans in the moſt explicit terms.

2dly, the Americans are too diſtant from Great-Britain, and too numerous and powerful, for the Britiſh parliament ever to venture to tax them oppreſſively.

But there is another ground of ſecurity to the Americans, which is ſtill ſtronger than the former: I mean their diſtance from Great-Britain, and their large and growing numbers, and their capacity, ariſing from theſe circumſtances, to reſiſt any acts of oppreſſion committed by Great-Britain, whenever they ſhall feel them. Great-Britain contains, it is ſaid, ſix millions of people; ſome ſay, eight millions: America contains three millions, and is continually increaſing in its numbers at a great rate; ſo that in twenty-five, or thirty, years it will probably contain as many as Great-Britain; and

and in fifty or ſixty years twice as many. Taxation is always a diſagreeable and difficult exertion of authority, though the authority itſelf be ever ſo clear and undiſputed: and we have ſeen tumults in England itſelf in oppoſition to taxes impoſed by act of parliament, without the leaſt pretence of doubt concerning the authority by which they were impoſed, but merely through a diſlike to the tax itſelf;----tumults that have riſen ſo high as to cauſe the tax to be repealed. How difficult then muſt it have been to Great-Britain to have forced a tax upon the Americans againſt their will, at the diſtance of three thouſand miles from the center of her ſtrength and authority, and with only a few troops ſcattered here and there through that extenſive country? We may ſafely ſay it would have been impoſſible: and the parliament of Great-Britain muſt have known that it would be ſo. Now this conſciouſneſs of their inability to enforce the payment of a tax in America againſt the general bent of the inhabitants would, as I apprehend, have reſtrained the Britiſh parliament from ever attempting to impoſe any general tax upon the Americans without a

ſcrupulous

ſcrupulous regard both to equity in the principle and ground of impoſing it, and moderation with reſpect to its quantity. You will obſerve that I do not place the ſafety of the Americans in the actual exertion of their ſtrength in oppoſition to the oppreſſive taxes that ſhould be impoſed on them by the Britiſh parliament; (for that, I am aware, is a diſmal remedy, which the people may always reſort to, and ſometimes do reſort to, in the worſt of governments:) but I place it in the parliament's knowledge that they poſſeſs that ſtrength, and their conſciouſneſs (ariſing from that knowledge) of their own inability to enforce the payment of any tax upon them that ſhall not, by its reaſonableneſs and equity, make its own way amongſt them, and diſpoſe them to be aſhamed of reſiſting it. And this reaſon would have ſtill more weight at preſent in reſtraining the parliament from abuſing the power of taxing the Americans, if they were to be allowed to exerciſe it, than it would have had before the preſent troubles. For, ſince the reſiſtance of America to the authority of the Britiſh parliament has been ſo ſtrong and ſo obſtinate as hitherto to have baffled all the endeavours of

Great-Britain to overcome it, and to have already put her to an expence of more money, in the exertions that have been hitherto made in this unhappy conteſt, than all the taxes that America could pay, if reduced to the moſt compleat ſubjection, would be ſufficient to make good in the courſe of many years, it is next to certain that, if the authority of the Britiſh parliament to lay taxes on the Americans for the general purpoſes above-mentioned was to be recognized by the Americans, the parliament would be exceeding cautious in the uſe of ſuch a power, and would take particular care to impoſe only ſuch taxes upon them as were likely to be thought reaſonable and juſt by them, and to be paid without a ſecond reſiſtance. Theſe are my reaſons for thinking that the Americans would run no riſque of being burthened with unreaſonable and oppreſſive taxes by the parliament of Great-Britain, if the right of the parliament to impoſe them had been ever ſo explicitly recognized.

FRENCHMAN.

I think there is a good deal of weight in theſe reaſons. And even the diſtance of the Americans

Americans from Great-Britain (which you have touched upon but ſlightly) would operate conſiderably in their favour, independently of the ſtrength which they derive from their great and growing numbers. The old Latin ſaying may be juſtly applied on this occaſion; *Procul à Jove, procul à fulmine.* No governments exert the ſame vigorous authority over their diſtant provinces as over thoſe which are nearer at hand and more within the reach of their executive power. The tyranny of Nero and Domitian was leſs felt by the inhabitants of Egypt and Syria, (though then compleatly reduced to the form of Roman provinces,) than by the inhabitants of Italy itſelf. I ſhould therefore be inclined to think with you that the Americans would not run much riſque of being oppreſſively taxed by the Britiſh parliament, if they were to acknowledge its authority to tax them. Yet there is a fact which many people alledge as a proof of the contrary; I mean, the duty upon ſtampt paper, which the Britiſh parliament impoſed upon the Americans in the year 1765. This, they ſay, was a moſt oppreſſive tax wantonly impoſed upon the Americans by the parliament in the very

Of the ſecurity of the Americans ariſing from their diſtance from Great-Britain.

Of the ſtamp-act in 1765.

firſt exerciſe of their pretended authority to tax America. I ſhould be glad to know your opinion concerning this tax; whether, or not, it was oppreſſive in its quantity, and whether there was any juſt ground for impoſing it.

ENGLISHMAN.

I am of opinion that that famous duty was both moderate in its quantity and impoſed upon a juſt occaſion; as I doubt not you will readily agree with me, when I have ſtated to you the ſum of money it was intended to produce, and the reaſon of impoſing it. They were as follows. Before the laſt war the whole expence of all North-America to the Britiſh government was only £.70,000 ſterling per annum. In the courſe of the war, (which was undertaken ſolely to preſerve the Engliſh colonies againſt the encroachments, or ſuppoſed encroachments, of the French on the river Ohio and in Nova Scotia,) Great-Britain ſpent above an hundred millions of pounds ſterling; of which 70 millions remained as a debt upon the nation at the end of the war, the intereſt of which was about £.2,300,000 a year, which

was

was a perpetual load upon the revenue of Great-Britain incurred for the defence of America. The American colonies had alſo exerted themſelves in the courſe of the war, by grants of money for the defence of their reſpective territories as well as by levies of troops; and I will ſuppoſe (for I am not minutely acquainted with this matter, and do not wiſh to derogate from their merits) to the utmoſt of their abilities. At laſt a peace is made; by which all Canada and Florida are ceded for ever to the crown of Great-Britain; the Britiſh miniſtry having inſiſted, in the courſe of the negotiations for the peace, on retaining theſe countries in North-America rather than the iſlands of Martinico and Guadaloupe, (which were alſo in our poſſeſſion, and would have produced a great increaſe of the public revenue of the nation,) merely with a view to preſerve the North-American provinces from all poſſible danger of being again moleſted by the French. Having thus obtained ceſſions of theſe new provinces of Canada and Florida, it was neceſſary that the king ſhould keep ſome troops there to maintain the poſſeſſion of them. And it was further judged neceſſary to keep a ſmall number

number of troops at ſome of the principal trading-poſts in the interiour, or upper, country of North-America, to protect the merchants who ſhould trade with the Indian ſavages at thoſe places for their furs, and to watch the motions of thoſe Indians, and prevent their making ſudden irruptions into the back ſettlements of the North-American provinces. All this required an additional expence beyond the £.70,000 per annum which the eſtabliſhments in America had coſt the Britiſh nation before the war. This additional expence was £.280,000, the whole expence of the American eſtabliſhment ſince the peace amounting to £.350,000. Whether this new eſtabliſhment was made more expenſive than was neceſſary, as the Americans alledge, or whether it was a reaſonable and proper one, I will not pretend to determine. The king and parliament of Great-Britain were the proper judges of this queſtion: and they formed the eſtabliſhment upon ſuch a footing as to require an annual expence of £.350,000. This was an additional burthen to the public revenue of Great-Britain of £.280,000 per annum, over and above the £.2,300,000 per annum, which is the intereſt of the new debt of £.70,000,000,

£.70,000,000, contracted in the war: and it was evidently incurred for the protection of the American colonies. Of this ſum therefore it ſeemed reaſonable to Mr. George Grenville, (who was the king's miniſter of ſtate for the department of the public revenue in the year 1764, and who was zealouſly deſirous of ſerving his country in that capacity, and of leſſening, by all the juſt methods he could think of, the enormous burthens incurred by the nation in the preceding war,) that the American colonies ſhould pay a part, to wit, one hundred thouſand pounds, or little more than a third part of the aforeſaid addition to the expence of that eſtabliſhment. And, as this contribution ought in reaſon and equity to be made by all the colonies in America, becauſe they all received the benefit of the eſtabliſhment which was to be, in part, ſupported by it; he thought the moſt convenient way of impoſing it would be to make uſe of the authority of the Britiſh parliament for that purpoſe; not thinking it probable that all the different aſſemblies of the provinces in America would concur in raiſing it, or, if they ſhould be inclined in the main to raiſe their quotas

of

of it, that they would ever agree in ſettling what thoſe quotas ſhould be. In this opinion he gave notice to the Houſe of Commons in the year 1764, that he ſhould next year propoſe to their conſideration the granting certain ſtamp-duties to his Majeſty, to be levied on their fellow-ſubjects in America, that ſhould produce the ſum of £.100,000 per annum, being about one third part of the additional expence of the American eſtabliſhment ſince the concluſion of the war; and that he purpoſely deferred his motion for impoſing theſe duties on the Americans till the next year, to the end that the colonies might have time to conſider of the matter, and to make their option of raiſing that or ſome other equivalent tax that they ſhould like better. This notice of an intention to apply to the Britiſh parliament for the impoſition of a tax upon America, alarmed ſome of the agents of the American colonies, and occaſioned their waiting upon Mr. Grenville ſeparately, to confer with him upon the ſubject, and their writing about it to their reſpective colonies. And at the end of the ſame ſeſſion of parliament the colony-agents all went to him in a body, to know

know if he ſtill intended to bring in ſuch a bill. He anſwered, " that he did:" and then repeated to them in form, what he had before ſaid in the Houſe of Commons, as well as to ſome of them in private, to wit, " That the " late war had found us ſeventy millions, and " left us more than one hundred and forty " millions, in debt.----That he knew that all " men wiſhed not to be taxed: but that, in " theſe unhappy circumſtances, it was his duty, " as a ſteward for the publick, to make uſe " of every juſt means of improving the pub- " lick revenue:---That he never meant, how- " ever, to charge the colonies with any part " of the national debt: but that, beſides that " publick debt, the nation had incurred a great " annual expence in the maintaining of the " ſeveral new conqueſts, which we had made " during the war, and by which the colonies " were ſo much benefited.----That the Ame- " rican civil and military eſtabliſhment after " the peace of Aix La Chapelle was only " £.70,000 per annum: and that it was now " increaſed to £.350,000.----That this was a " great additional expence incurred upon an " American account: and that he therefore

" thought that America ought to contribute " towards it.----That he did not expect that " the colonies ſhould raiſe the whole of it: " but that he thought they ought to raiſe ſome " part of it: and that the ſtamp-duty was " intended for that purpoſe." He added, " That he judged this method of raiſing the " money to be the eaſieſt and the moſt equi- " table:----That it was a tax which would " fall only upon people of property;---that it " would be collected by the feweſt officers; " and would be equally ſpread over North- " America and the Weſt-Indies; ſo that all " would bear their ſhare of the publick burthen." He then went on in theſe words; " I am not, " however, ſet upon this tax. If the Ame- " ricans diſlike it, and prefer any other method " of raiſing the money themſelves, I ſhall be " content. Write therefore to your ſeveral " colonies: and, if they chuſe any other mode, " I ſhall be ſatisfied, provided the money be " but raiſed." Such was Mr. Grenville's converſation with the agents of ſeveral of the American colonies in the year 1764 concerning the ſtamp-act which was then intended to be paſſed in the following ſeſſion, as it is related

lated by Mr. Mauduit, one of thoſe agents, in a paper which he printed with his name to it in the year 1775. And he declares in this paper that Mr. Edward Mountague, the Maſter in Chancery, (who in the year 1764 was agent for the province of Virginia, and was preſent at that meeting of the colony-agents at Mr. Grenville's houſe,) had read over this paper of Mr. Mauduit, and aſſented to every particular of it. The agents of the colonies accordingly wrote to their reſpective aſſemblies to acquaint them with this intention of Mr. Grenville to move in parliament for a ſtamp-duty upon America, and with the offer he made at the ſame time, of forbearing to move for it, if they would raiſe the ſame ſum of money among themſelves by acts of their ſeveral aſſemblies. But they refuſed to do this: and thereupon the ſtamp-act was paſſed by the parliament in the following year 1765. This is, as I believe, the true hiſtory of the famous ſtamp-act. I leave you now to judge for yourſelf whether there was any thing unjuſt or oppreſſive in it.

FRENCHMAN.

I do not conceive how any one can think it either oppreſſive or unjuſt; I mean of thoſe who allow the Britiſh parliament to have in any caſe the right of impoſing taxes on America, as you and I do for the reaſons we have already mentioned, For it is a tax for one of thoſe general purpoſes that relate equally to all the colonies, to wit, the maintenance of the poſſeſſion of the new-acquired provinces of Canada and Florida, (which incloſe all the reſt, and from which, if they were in the hands of enemies, irruptions might be made into them,) and for the protection of the perſons concerned in the Indian trade and of the back ſettlements of all the provinces; and therefore, (according to what we have already obſerved concerning the charters and commiſſions under which the Americans are governed,) it could not be legally levied by the ſeveral aſſemblies of the American provinces by virtue of their charters and commiſſions, the powers of taxation contained in thoſe inſtruments being not ſufficiently extenſive: and (which is of more importance), if it could be legally levied by virtue

of

of thoſe inſtruments, it would ſtill be impoſſible in practice to procure it to be levied in that manner, becauſe of the diſſenſions that would infallibly ariſe amongſt the different colonies concerning the magnitude of the quotas which each of them ought to contribute towards it. It ſeems to me therefore that it could not be levied at all, according to the preſent conſtitution of the Britiſh government, if it could not be impoſed by the authority of the Britiſh parliament: and that, I think, would be very unreaſonable, ſince the eſtabliſhment, which was to be, in part, ſupported by it, was ſo immediately and ſo highly beneficial to America. I ſhould incline however to be of opinion that, if they had paid this ſtamp-duty chearfully, and had acknowledged the right of the Britiſh parliament to impoſe taxes on them, (at leaſt for thoſe general purpoſes that related to all the colonies, and to which they all ought to contribute,) they would have had a reaſonable pretence for aſking to be permitted to ſend members to the parliament as well as the counties and boroughs of Great-Britain itſelf: and I do not conceive that their diſtance from Great-Britain would render this at all impracticable,

now

now that the navigation and intercourſe between the countries is ſo frequent and regular. And this might probably have made them eaſy, and removed thoſe apprehenſions of being oppreſſively taxed by Great-Britain, which they now declare they entertain in conſequence of their want of ſpecial repreſentatives in that great aſſembly; ---- though, indeed, I do not conceive their apprehenſions of ſuch oppreſſion to be very well founded, (even while they have no ſuch repreſentatives,) for the reaſons we have already mentioned. However, if they had deſired to have ſuch repreſentatives in the Britiſh parliament, in a reaſonable number, in order to remove every ſhadow of inequality or hardſhip, and to place them intirely on the ſame footing as their fellow-ſubjects reſiding in Great-Britain, I think they ought to have been indulged in their requeſt, and, perhaps, could not decently have been refuſed it.

ENGLISHMAN.

I am intirely of your opinion. They certainly would have had a very equitable ground for making ſuch a requeſt; and it could not with any appearance of decency have been refuſed

refuſed them. And this is allowed by the warmeſt advocates for parliamentary taxation. For Mr. Grenville himſelf, who brought forward the meaſure of impoſing the ſtamp-duty upon them, uſed to declare that he thought it reaſonable that they ſhould, if they deſired it, ſend members to the parliament of Great-Britain; though he did not think that their not having hitherto done ſo rendered the authority of the parliament incompetent to the exerciſe of the power of taxation over them before this improvement of the conſtitution of the Houſe of Commons had taken place. Indeed this admiſſion of repreſentatives from the American colonies is the natural, obvious, and conſtitutional remedy for the inconveniences they would otherwiſe be ſubject to from the exerciſe of the parliament's authority in the buſineſs of taxation. It is the very remedy which was applied in a ſimilar caſe about a hundred years ago with reſpect to the biſhoprick, or county palatine, of Durham in England; and with compleat ſucceſs, no complaints having been made by the inhabitants of that county upon this ſubject at any time ſince. They were before this liable to pay all the taxes

impoſed

impoſed by the Engliſh parliament in the ſame manner as the inhabitants of the other counties of England; and they conſtantly paid them: and yet they ſent no members to the parliament. This they thought a hardſhip, and repreſented as ſuch to the parliament, and, upon that ground, deſired to be permitted to ſend members to the parliament. The parliament thought their requeſt reaſonable, and granted it: and from that time to this they have ſent four members to the Engliſh Houſe of Commons, namely, two for the county, or biſhoprick, at large, who are choſen by the freeholders of it, and two for the city of Durham, who are choſen by the mayor, aldermen, and freemen of the corporation of that city. This act was paſſed in the year 1672, which was the twenty-fifth year of the reign of king Charles II. or the thirteenth year after his reſtoration. The preamble of it is in theſe words. "*Whereas the inhabitants of the county palatine of Durham have not hitherto had the liberty and privilege of electing and ſending any knights and burgeſſes to the high court of parliament, although the inhabitants of the ſaid county palatine are liable to all payments, rates, and ſubſidies*

ſubſidies granted by parliament, equally with the inhabitants of other counties, cities and boroughs in this kingdom, (who have their knights and burgeſſes in the parliament,) and are therefore concerned, equally with others the inhabitants of this kingdom, to have knights and burgeſſes in the ſaid high court of parliament of their own election, to repreſent the condition of their county, as the inhabitants of other counties, cities, and boroughs of this kingdom have." This preamble expreſſes clearly the opinion that prevailed upon this ſubject in the Engliſh parliament and nation, that is, in other words, it expreſſes the conſtitution of the Engliſh government upon this matter, in the reign of king Charles II. which is the very æra of the Engliſh hiſtory which we ought to pitch upon in order to aſcertain the rights of the American coloniſts, becauſe it was during this reign that moſt of their charters were granted, and their governments eſtabliſhed or brought into form and order. The more early part of the hiſtory of England ſeems foreign to this inquiry, and tends only to lead us into doubt and perplexity concerning it. This meaſure, therefore, of permitting the inhabitants of the American

colonies to ſend members to the Britiſh parliament, which you have ſuggeſted as the proper remedy for the complaints of the Americans againſt parliamentary taxation, appears by this great example to be the true, natural, and conſtitutional remedy for that grievance. And, as you alſo rightly obſerved, it would be by no means impracticable by reaſon of the diſtance of the two countries from each other, now that the navigation to and from America is ſo well underſtood and ſo conſtantly practiſed, and the intercourſe with it is ſo frequent and regular. Indeed the difficulties of that kind, (I mean thoſe that are owing to the diſtance of the two countries,) have been already actually tried, and found to be trifling, in a caſe that is exactly ſimilar to that of an election of repreſentatives from America in the Britiſh parliament; I mean, in the appointment of agents for the American colonies reſiding in Great-Britain, to tranſact their buſineſs with the king's majeſty, or his miniſters of ſtate, or privy-council, or with the two houſes of parliament. The diſtance of theſe agents from their conſtituents in America is found to be no impediment to their tranſacting the buſineſs entruſted to them to

the

the ſatisfaction of their conſtituents, nor to their receiving the neceſſary inſtructions and informations concerning the ſentiments of the colonies by which they are employed: nor is it found to be neceſſary that theſe agents ſhould be perpetually croſſing the ſeas to and from America in order to receive theſe inſtructions and informations. The ſame may therefore well be ſuppoſed concerning any repreſentatives which the Americans ſhould be permitted to have in the Britiſh Houſe of Commons. They would not be under any neceſſity of perpetually going backwards and forwards between England and America, any more than theſe agents; nor would they find any greater difficulty in tranſacting the buſineſs of their conſtituents *in parliament* than theſe agents do in tranſacting the buſineſs entruſted to their management *out of parliament*. In ſhort, admit theſe agents into parliament, with a reaſonable increaſe of their number; and the buſineſs is done. So far is it from being (as ſome people have repreſented it,) a chimerical, viſionary, and impracticable meaſure on account of the diſtance of America from Great-Britain.

FRENCHMAN.

I wonder therefore that this meaſure has never been adopted, ſince it appears to be both ſo agreeable to the conſtitution of the Britiſh government, and ſo eaſy to put in practice. Has nobody ever thought of it, or propoſed it? And, if they have, what has hindered it from being adopted, ſeeing that, if it were once eſtabliſhed, it would put a ſhort and happy end to this whole unfortunate conteſt?

ENGLISHMAN.

Theſe are queſtions which I am not very ſure that I can anſwer. However, I will endeavour to give you ſome ſatisfaction concerning them.

In anſwer to your firſt queſtion I muſt obſerve that this method of ſettling the diſputes between Great-Britain and her colonies is by no means new. It has often been mentioned and ſuggeſted, and ſometimes by men well acquainted both with the Britiſh conſtitution and the nature of the American colonies and the ſentiments that prevail amongſt them. Many Engliſhmen and many Americans have thought of it. Mr. Grenville

Grenville himſelf, as I obſerved before, has more than once declared in parliament that he thought ſuch a meaſure would be reaſonable. And Mr. Thomas Pownall, (who was governour of the Maſſachuſets bay during part of the late war, and who is very well acquainted with the conſtitutions of that and the other colony-governments, and who alſo was, as I have hear'd, much eſteemed and reſpected by the people under his government,) has publickly recommended this meaſure in two books which he has publiſhed, (the one eight or nine years ago, the other about two years ago) on the adminiſtration of the colonies. And the great Dr. Benjamin Franklyn himſelf, whoſe abilities and opinions are ſo much revered by the Americans, was formerly of the ſame opinion. As his opinions upon the ſubjects of the preſent diſputes between Great-Britain and America are juſtly conſidered as of the greateſt weight, I will read to you, (as I have it at hand,) a part of a letter written by him to Mr. Shirley, the governour of the Maſſachuſets bay, in the month of December, 1754, upon this very ſubject, of admitting repreſentatives from the American colonies into the Britiſh parliament.

Letter

Letter from Benjamin Franklyn, Esq; to Governour Shirley, dated, Boston, December 22, 1754.

SIR,

" SINCE the conversation your Excellency
" was pleased to honour me with, on the
" subject of uniting the colonies more intimately
" with Great-Britain, by allowing them repre-
" sentatives in parliament, I have something
" further considered that matter, and am of
" opinion, that such an union would be very
" acceptable to the colonies, provided they had
" a reasonable number of representatives al-
" lowed them; and that all the old acts of
" parliament, restraining the trade, or cramp-
" ing the manufactures of the colonies, be at
" the same time repealed; and the British
" subjects, on this side the water, put, in
" those respects, on the same footing with
" those in Great-Britain, 'till the new parlia-
" ment, *representing the whole*, shall think it
" for the interest of the whole to re-enact
" some or all of them.

" It

" It is not that I imagine ſo many repre-
" ſentatives will be allowed the colonies, as
" to have any great weight by their numbers;
" but I think there might be ſufficient to
" occaſion thoſe laws to be better and more
" impartially conſidered; and perhaps to over-
" come the private intereſt of a petty corpora-
" tion, or of any particular ſet of artificers or
" traders in England; who heretofore ſeem,
" in ſome inſtances, to have been more re-
" garded than all the colonies, or than was
" conſiſtent with the general intereſt, or beſt
" national good. I think too, that the go-
" vernment of the colonies by a parliament,
" in which they are fairly repreſented, would
" be vaſtly more agreeable to the people, than
" the method lately attempted to be introduced
" by royal inſtructions, as well as more agree-
" able to the nature of an Engliſh conſtitution,
" and to Engliſh liberty: and that ſuch laws,
" as now ſeem to be hard on the colonies
" (when judged by ſuch a parliament for the
" beſt intereſt of the whole) would be more
" chearfully ſubmitted to, and more eaſily
" executed.

" I ſhould

" I ſhould hope too, that by ſuch an union, " the people of Great-Britain, and the people " of the colonies, would learn to conſider " themſelves, not as belonging to different " communities with different intereſts, but to " one community with one intereſt; which, I " imagine, would contribute to ſtrengthen the " whole, and *greatly leſſen the danger of future* " *ſeparations.*" *

You ſee by this very reſpectable teſtimony, that in the year 1754 this meaſure, of ſending members to the Britiſh parliament, would in all probability have been very agreeable to the Americans, and conſequently would, if it had been then adopted, have prevented all the preſent diſputes. But at that time the Britiſh nation ſeemed averſe to it: and even now they do not ſeem much inclined to adopt it, notwithſtanding the alarming height to which the diſturbances in America have ariſen for want of ſome ſuch ſettlement; though, perhaps, they might now be brought to conſent to it, if it

* See this whole letter, with another of the late Mr. George Grenville on the ſame ſubject, in the Appendix to Mr. Pownall's ſecond Part of his Adminiſtration of the Colonies, publiſhed in November, 1774.

it was earneſtly applied for by the Americans as a certain means of reſtoring the peace of the empire. But this the Americans now diſdain to do; and, in the confidence of their growing ſtrength and numbers, they have even gone ſo far as to reject the meaſure itſelf, before it has been offered them, by declaring in their publick addreſſes, that they eſteem it to be impracticable. So critical are the times and ſeaſons in which new meaſures of the utmoſt importance to the ſtate, can be ſafely and ſucceſsfully adopted!

FRENCHMAN.

Pray, what are the principal objections made to this propoſal by the inhabitants of Great-Britain, whoſe intereſt ſeems to me to require an immediate accommodation with the American colonies upon almoſt any terms, and much more upon ſuch honourable and advantageous terms as the preſervation of the unity of the whole empire by candidly admitting their American fellow-ſubjects to a reaſonable ſhare of the ſupreme legiſlative authority?

Of the objections made by the inhabitants of Great Britain to the plan of an American repreſentation.

ENGLISHMAN.

I cannot well anſwer this queſtion, the objections of many of them to this meaſure being founded (as far as I have been able to obſerve,) on a kind of ſuſpicion and dread of novelty, and a diſguſt at the thought of mixing with people brought up in a different climate from themſelves, and under different modifications of the Britiſh government and the proteſtant religion, though uſing the ſame language, and on the like delicate and undeſcribeable feelings, rather than on any ſolid arguments againſt it. However I will mention to you what two of the moſt eminent Engliſh writers upon the ſubject have publickly alledged againſt it; I mean Dr. Tucker, the learned dean of Glouceſter, (who is a violent enemy to the pretenſions of the Americans) and Mr. Edmund Burke, the great orator in the Britiſh Houſe of Commons, who, for his uncommon eloquence both in ſpeaking and writing, may well be called the modern Cicero. This ingenious gentleman founds his objections chiefly on the delays that would be neceſſary in ſummoning parliaments in order to allow time for the ſending the king's writ

The objections made by Mr. Edmund Burke.

writ of ſummons acroſs the Atlantick ocean to the American colonies to chuſe their repreſentatives, and for the election of the repreſentatives and their paſſage to England to attend the parliament. The inconveniences ariſing from this circumſtance he repreſents in a variety of lights, and makes them the ſubject of his wit and ridicule.

FRENCHMAN.

Pray, what are the inconveniences that he lays ſo great a ſtreſs upon?—If you can recollect them, I beg you would ſtate them; for I cannot conceive any objections to ſuch a meaſure, ariſing merely from the diſtance of the two countries, but what might be eaſily removed.

ENGLISHMAN.

I think you are quite right in this opinion. And, accordingly, the objections he has made to this meaſure, are, as you imagine, of ſuch a kind, that a very little contrivance is neceſſary to remove them. But that contrivance he has not thought fit to uſe; though it evidently appears from what he has ſaid upon the ſubject,

that ſome of the proviſions neceſſary to remove thoſe objections had not eſcaped his obſervation. The paſſage in which he has ſtated theſe objections is contained in a pamphlet publiſhed in the year 1769, and intituled, "*Obſervations on a late State of the Nation*," which was written in anſwer to another celebrated pamphlet, that had been publiſhed a little before, with the title of "*The preſent State of the Nation*," and which was ſuppoſed to be written by the advice and direction of the late Mr. George Grenville, and which the author of the Obſervations on it every where conſiders as Mr. Grenville's work. As both theſe pamphlets are here at hand in the book you ſee lying upon that table, I will look out the paſſages in them both which relate to the preſent ſubject, and read them to you, if you are inclined to hear them. They take up but ſix or ſeven pages in that octavo volume.

FRENCHMAN.

I ſhall be much obliged to you for reading them. It will give me great ſatisfaction to hear what two ſuch men as the late Mr. George Grenville and Mr. Burke have delivered upon

ſo important a ſubject;----not to mention the entertainment you have taught me to expect from the wit and vivacity of the latter in his manner of treating it.

ENGLISHMAN.

The paſſage in the firſt-written of theſe pamphlets, called "*The preſent State of the Nation*," which relates to this ſubject of American repreſentation, is as follows. "The prodigious extent of the Britiſh dominions in America, the rapid increaſe of the people there, and the great value of their trade, all unite in giving them ſuch a degree of importance in the empire, as requires that more attention ſhould be paid to their concerns, by the ſupreme legiſlature, than can be expected from it, ſo long as the colonies do not elect any of the members of which the Houſe of Commons is compoſed. It is not to give parliament a right to tax, or make other laws to affect the lives or liberties of the ſubjects in the colonies, that I propoſe their ſending members to parliament: the authority of that auguſt aſſembly is not limited by the conſtitution, to be exerciſed over thoſe ſubjects only, by whom the Houſe

A paſſage of a celebrated pamphlet in favour of an American repreſentation.

Houſe of Commons is choſen. The ſupreme legiſlature repreſents *all* the ſubjects of the ſtate: "For the legiſlative is the joint power of every "member of the ſociety, given up to that perſon "or that aſſembly, which is the legiſlator."* It is only eſſential to the completion of the legiſlative power in Great-Britain, that the members of the Houſe of Commons ſhould be commoners, and elected by commoners. The preſcribed mode of election may be altered at any time; but this eſſential principle cannot be changed without diſſolving the conſtitution.

"The number of the electors is, I conceive, become too ſmall in proportion to the whole people, and the preſent importance of the colonies ſeems to demand that ſome among them ſhould be veſted with the right of electing; for it is not reaſonable or fitting that the right of election for the whole of the elective part of the ſupreme legiſlature, ſhould continue reſtrained to certain inhabitants of Great-Britain, *now*, that ſo many of the ſubjects of the realm reſide out of Great-Britain. On this principle, and on this principle only, it is, that I think the colonies ought to be allowed to ſend members to parliament. Diffuſing the right of election

* See Locke's Treatiſe on Government.

election will certainly give each part of the empire a better opportunity of laying open grievances, and obtaining redreſs, of acquiring benefits, and removing cauſes of complaint, than they can have while it is confined to ſuch only as reſide in Great-Britain. But let it not be imagined, that by increaſing the number of the electors, or adding to the members of the Houſe of Commons, any new rights can be given to the legiſlature, or that the ſovereign authority of the legiſlature can be enlarged over thoſe who were always ſubjects of the realm; it muſt always have been abſolute and compleat over them, and it is not, therefore, capable of addition or enlargement." This is the paſſage in favour of American repreſentation, in the pamphlet written by Mr. Grenville, or his friend. Do you ſee any thing very abſurd in it, or that affords much room for ridicule?

FRENCHMAN.

Truly it ſeems to me to be very rational and judicious. Nor does my dull imagination enable me to conceive in what manner it can be made the object of ridicule. I am therefore impatient to hear the paſſage in the other pamphlet, in which, you ſay, this has been done.

ENGLISH-

It has indeed been done, notwithſtanding you ſeem to think it impoſſible:---and done too with ſo much ſucceſs as to indiſpoſe a great number of people againſt the meaſure of an American repreſentation, and make them conceive it to be viſionary and impracticable, though they were formerly inclined to think it reaſonable. The firſt paſſage in the pamphlet called "*Obſervations on a late State of the Nation*," in which the foregoing paſſage of the former pamphlet is remarked on, is in theſe words. "The ſecond project of this author [that is, the author of the former pamphlet called "*The preſent State of the Nation*,"] is an addition to our repreſentatives by new American members of parliament. Not that I mean to condemn ſuch ſpeculative enquiries concerning this great object of the national attention. They may tend to clear doubtful points, and poſſibly may lead, as they have often done, to real improvements. What I object to, is their introduction into a diſcourſe relating to the immediate ſtate of our affairs, and recommending plans of practical government. In this view, I ſee nothing in them

A paſſage of another famous pamphlet in anſwer to the former.

them but what is uſual with the author; an attempt to raiſe diſcontent in the people of England, to balance thoſe diſcontents the meaſures of his friends had already raiſed in America." And the ſecond and principal paſſage is in theſe words. " Now comes his American repreſentation. Here too, as uſual, he takes no notice of any difficulty, nor ſays any thing to obviate thoſe objections that muſt naturally ariſe in the minds of his readers. He throws you his politicks as he does his revenue; do you make ſomething of them if you can. Is not the reader a little aſtoniſhed at the propoſal of an American repreſentation from that quarter? It is propoſed merely as a project of ſpeculative improvement; not from the neceſſity in the caſe, not to add any thing to the authority of parliament: but that we may afford a greater attention to the concerns of the Americans, and give them a better opportunity of ſtating their grievances, and of obtaining redreſs. I am glad to find the author has at length diſcovered that we have not given a ſufficient attention to their concerns, or a proper redreſs to their grievances. His great friend would once have been exceedingly diſpleaſed

with any perſon, who ſhould have told him, that he did not attend ſufficiently to thoſe concerns. He thought he did ſo, when he regulated the colonies over and over again: he thought he did ſo, when he formed two general ſyſtems of revenue; one of port-duties, and the other of internal taxation. Theſe ſyſtems ſuppoſed, or ought to ſuppoſe, the greateſt attention to, and the moſt detailed information of, all their affairs. However, by contending for the American repreſentation, he ſeems at laſt driven virtually to admit, that great caution ought to be uſed in the exerciſe of *all* our legiſlative rights over an object ſo remote from our eye, and ſo little connected with our immediate feelings; that in prudence we ought not to be quite ſo ready with our taxes, until we can ſecure the deſired repreſentation in parliament. Perhaps it may be ſome time before this hopeful ſcheme can be brought to perfect maturity; although the author ſeems to be no-wiſe aware of any obſtructions that lie in the way of it. He talks of his union, juſt as he does of his taxes and his ſavings, with as much *ſàng froid* and eaſe, as if his wiſh and the enjoyment were exactly the ſame thing. He appears not

to

to have troubled his head with the infinite difficulty of ſettling that repreſentation on a fair balance of wealth and numbers throughout the ſeveral provinces of America and the Weſt-Indies, under ſuch an infinite variety of circumſtances. It coſts him nothing to fight with nature, and to conquer the order of Providence, which manifeſtly oppoſes itſelf to the poſſibility of ſuch a parliamentary union.

" But let us, to indulge his paſſion for projects and power, ſuppoſe the happy time arrived, when the author comes into the miniſtry, and is to realize his ſpeculations. The writs are iſſued for electing members for America and the Weſt-Indies. Some provinces receive them in ſix weeks, ſome in ten, ſome in twenty. A veſſel may be loſt, and then ſome provinces may not receive them at all. But let it be, that they all receive them at once, and in the ſhorteſt time. A proper ſpace muſt be given for proclamation and for the election; ſome weeks at leaſt. But the members are choſen; and, if ſhips are ready to ſail, in about ſix more they arrive in London. In the mean time the parliament has ſat, and buſineſs has been far advanced without

American repreſentatives. Nay, by this time, it may happen that the parliament is diſſolved; and then the members ſhip themſelves again, to be again elected. The writs may arrive in America, before the poor members of a parliament in which they never ſat, can arrive at their ſeveral provinces. A new intereſt is formed, and they find other members are choſen whilſt they are on the high ſeas. But, if the writs and members arrive together, here is at beſt a new trial of ſkill amongſt the candidates, after one ſet of them have well aired themſelves with their two voyages of 6000 miles.

" However, in order to facilitate every thing to the author, we will ſuppoſe them all once more elected, and ſteering again to Old England, with a good heart, and a fair weſterly wind in their ſtern. On their arrival, they find all in a hurry and buſtle; in and out; condoleance and congratulation; the crown is demiſed. Another parliament is to be called. Away back to America again on a fourth voyage, and to a third election. Does the author mean to make our kings as immortal in their perſonal as in their politic character? or, whilſt he bountifully adds to their life, will he take from them their prerogative

rogative of diſſolving parliaments, in favour of the American union? or are the American repreſentatives to be perpetual, and to feel neither demiſes of the crown, nor diſſolutions of parliament?

"But theſe things may be granted to him, without bringing him much nearer to his point. What does he think of re-election? is the American member the only one who is not to take a place, or the only one to be exempted from the ceremony of re-election? How will this great politician preſerve the rights of electors, the fairneſs of returns, and the privilege of the Houſe of Commons, as the ſole judge of ſuch conteſts? It would undoubtedly be a glorious ſight to have eight or ten petitions, or double returns, from Boſton and Barbadoes, from Philadelphia and Jamaica, the members returned, and the petitioners, with all their train of attornies, ſollicitors, mayors, ſelect-men, provoſt-marſhals, and about five hundred or a thouſand witneſſes, come to the bar of the Houſe of Commons. Poſſibly we might be interrupted in the enjoyment of this pleaſing ſpectacle, if a war ſhould break out, and our conſtitutional fleet, loaded with members of parliament, returning

turning officers, petitioners, and witneſſes, the electors and elected, ſhould become a prize to the French or Spaniards, and be conveyed to Carthagena or to La Vera Cruz, and from thence perhaps to Mexico or Lima, there to remain until a cartel for members of parliament can be ſettled, or until the war is ended.

" In truth, the author has little ſtudied this buſineſs; or he might have known, that ſome of the moſt conſiderable provinces of America, ſuch for inſtance as Connecticut and Maſſachuſſetts Bay, have not in each of them two men who can afford, at a diſtance from their eſtates, to ſpend a thouſand pounds a year. How can theſe provinces be repreſented at Weſtminſter? If their province pays them, they are American agents, with ſalaries, and not independent members of parliament. It is true, that formerly in England members had ſalaries from their conſtituents; but they all had ſalaries, and were all, in this way, upon a par. If theſe American repreſentatives have no ſalaries, then they muſt add to the liſt of our penſioners and dependants at court, or they muſt ſtarve. There is no alternative.

" Enough

" Enough of this viſionary union; in which much extravagance appears without any fancy, and the judgement is ſhocked without any thing to refreſh the imagination. It looks as if the author had dropped down from the moon, without any knowledge of the general nature of this globe, of the general nature of its inhabitants, without the leaſt acquaintance with the affairs of this country. Governour Pownal has handled the ſame ſubject. To do him juſtice, he treats it upon far more rational principles of ſpeculation, and much more like a man of buſineſs. He thinks (erroneouſly, I conceive; but he does think) that our legiſlative rights are incomplete without ſuch a repreſentation. It is no wonder, therefore, that he endeavours by every means to obtain it. Not like our author, who is always on velvet; he is aware of ſome difficulties; and he propoſes ſome ſolutions. But nature is too hard for both theſe authors; and America is, and ever will be, without actual repreſentation in the Houſe of Commons; nor will any miniſter be wild enough even to propoſe ſuch a repreſentation in parliament; however he may chuſe to throw out that project, together with others equally far from his

his real opinions and remote from his deſigns, merely to fall in with the different views, and captivate the affections, of different ſorts of men."

This is the whole of what that ingenious writer has alledged in oppoſition to the meaſure of an American repreſentation. Are you convinced by it that the meaſure is impracticable?

FRENCHMAN.

By no means: though I confeſs I have been much entertained by the lively manner in which the author treats the ſubject, and the odd circumſtances of diſtreſs and diſappointment in which he has contrived to throw the new American repreſentatives which his antagoniſt had propoſed to admit into the Britiſh parliament. The picture of a French privateer intercepting a cargo of American legiſlators in time of war is particularly diverting, as well as their diſappointment, upon other occaſions, at finding, upon their firſt landing in England, that the parliament they were ſummoned to attend is at an end by a ſudden and capricious diſſolution, or by the unexpected death of the king. But theſe misfortunes are extremely improbable, or rather

rather almoſt impoſſible, and therefore are no real objections to, the plan. And, even if they were likely to happen upon the author's ſuppoſition of an exact reſemblance between the manner and times of electing the American members and thoſe of electing the members choſen in Great-Britain, yet it would be eaſy to provide againſt them by varying the times and manner of the elections in America in a few circumſtances that would no way affect the freedom and independency of the Britiſh Houſe of Commons, or diminiſh its utility. For example, inſtead of ſending the king's writ of ſummons, acroſs the Atlantick ocean, to the ſeveral colonies in America to elect members to a new parliament, his Majeſty might give his American colonies a *general* power of chuſing their members every year on a certain day appointed for that purpoſe; and the members then choſen, if they were reſident in America at the time of their election, might be ordered to repair to England immediately after to attend ſuch parliament, or parliaments, as ſhould be aſſembled in England during the year for which they had been choſen, without being liable to have their ſeats made void either by a diſſolution of the parliament or

by the king's death. This proviſion would avoid all the pretended difficulties ariſing from the length of time that would be neceſſary to ſend the king's writ acroſs the Atlantick ocean, and for the ſubſequent election, and the return of it to the parliament, with the members elected in purſuance of it. For by this means the king's writ would never be ſent to America, though the elections in England and Scotland might be carried on in purſuance of ſuch writs in the uſual manner. And the other objections ſtated by this author might, I dare ſay, be as eaſily removed by ſome other proviſions of the ſame kind.

ENGLISHMAN.

I am intirely of your opinion, that the other objections above-mentioned to this meaſure of an American repreſentation might be removed by ſome ſuch eaſy precautions as thoſe you have above propoſed, which I intirely approve. Indeed I am ſo much pleaſed with your notion, of chuſing the Americans every year on a given day without the formality of the king's writ, that I could wiſh it were adopted in Great-Britain itſelf, where it could be attended, in my opinion,

opinion, with none but the moſt ſalutary conſequences. But that is an improvement of the conſtitution of that country which, for reaſons too long to be entered into at preſent, there is not the leaſt ground to hope for. But thoſe reaſons do not relate to America, or at leaſt, not ſo ſtrongly as to Great-Britain: and therefore I ſhould imagine a proviſion of this kind might be readily adopted with reſpect to the American colonies, ſuppoſing this meaſure of an American repreſentation was ever to be ſeriouſly undertaken. And, if it were adopted, I ſhould ſuppoſe that ſome day in the middle of ſummer, (as for example, Midſummer-day itſelf, that is, the twenty-fourth of June, or the firſt of July, or the firſt of Auguſt,) would be the moſt proper for theſe American elections; becauſe that is the ſeaſon of the year during which the Engliſh parliament is almoſt always in a ſtate of ſuſpenſion and receſs from publick buſineſs, which ſeldom begins before the middle of November, and often not till towards the end of January. Now, if the American members were to be elected on the twenty-fourth day of June, or the firſt of July, in every year, or even ſo late as the firſt of Auguſt, it is morally certain

that they themſelves, if they were in America at the time of their election, or, if they were then in England, their commiſſions to be the repreſentatives of the colonies that had choſen them, or the inſtruments (whatever might be the form of them,) whereby their elections to parliament would be authentically notified, might always be in England before the firſt of the November, or rather of the October, following. And, to guard againſt the accidents to which voyages by ſea are always liable, there might be two or three original draughts of the ſaid commiſſions, or inſtruments, all executed in the ſame manner, and conſequently of equal authenticity, ſent over to England at the ſame time by different ſhips, ſo that, if one or two of them were loſt at ſea, or taken by an enemy, yet another might ſtill arrive in England in due time of ſufficient validity to authorize the perſon mentioned in it to take his ſeat in parliament. As for the members themſelves, they would probably for the moſt part be reſident in England, at leaſt after their firſt election to the office, (as the agents for the American colonies have uſually been,) and, if they gave ſatisfaction to their conſtituents, would be choſen over and

over

over again by their reſpective colonies in their abſence. And thus the dreadful danger of the French privateer that might intercept a whole fleet of theſe repreſentatives in their paſſage to England, which was painted in ſuch lively colours by this witty writer, would be avoided.

And further, to prevent the poſſibility of America's being left without repreſentatives in parliament by any ſuppoſed accidents, however improbable, ariſing from the uncertainty of winds and waves, it might be proper, if no new commiſſions came over at the uſual time from the colonies for which the American members were choſen, to let them continue to ſit in parliament beyond the year for which they had been choſen, and till ſuch new commiſſions ſhould arrive.

The proviſion you have ſuggeſted to avoid the inconveniences ariſing from ſudden diſſolutions of the parliament, or the unexpected demiſe of the crown, namely, that the ſeats of the American repreſentatives ſhould not be vacated by theſe events, but only ſuſpended till the meeting of another parliament, ſeems to have occurred to this ingenious writer, but, in the

the heat of controverſy, to have been diſapproved by him. For he aſks, with a ſort of triumphant indignation, " whether the Ameri-" can repreſentatives are to be perpetual, and " to feel neither demiſes of the crown, nor " diſſolutions of parliament," as if the very ſtating ſuch a propoſal were a ſufficient proof of its abſurdity. But it is probable he would have conſidered this as leſs abſurd if he had thought of the other part of the proviſion you ſuggeſted, namely, that the American repreſentatives were to be choſen anew every year. For this renders this new privilege, of retaining their right to ſit in the next parliament without a re-election, a matter of very little conſequence. And for this reaſon they ought likewiſe to be permitted to retain their ſeats in parliament after taking a place, as well as upon a diſſolution of the parliament, or a demiſe of the crown. For, if their conſtituents were diſpleaſed at their conduct in ſo doing, they might chuſe another perſon in their ſtead in the following ſummer. The permitting a member whoſe conduct had not anſwered their expectations, to retain his ſeat in parliament for only one year, could not do them any material prejudice, nor give them much cauſe of offence.

Indeed

Indeed this proviſion, of chuſing the members anew every year, would have very extenſive good effects. Amongſt others, it would keep the American repreſentatives in a perpetual ſtate of dependance upon their conſtituents, and thereby oblige them to conſult their welfare and conform in a good meaſure to their inclinations, inſtead of ſacrificing their intereſts to the miniſters of ſtate for the time being, in exchange for places or other emoluments for themſelves. This ſort of treachery in the members that would be choſen into the Britiſh parliament to repreſent the American colonies, in caſe an American repreſentation were to take place, is what, I know, the Americans are very much afraid of, and is conſidered by them as a ſtrong objection to the meaſure. Sir Francis Bernard, who was for many years governour of the province of the Maſſachuſets Bay, ſays in his 13th letter dated from Boſton (where he then reſided as governour,) in January, 1768, (which he himſelf afterwards publiſhed in London in the year 1774,) that it has been a ſerious objection in his province to the meaſure of an American repreſentation, "*that the American repreſentatives would be ſubject to undue influence.*"

influence." And he relates in the ſame letter a ſarcaſtick ſpeech of an old member of the aſſembly of that province (whoſe name and character, he ſays, were well known in England) made in the aſſembly upon the mention of this meaſure of an American repreſentation, which was a proof of his ſenſe of the force of this objection. This old member ſaid to the aſſembly, "*that, as* "*they were determined to have repreſentatives,* "*he begged leave to recommend to them a merchant* "*who would undertake to carry their repreſen-* "*tatives to England for half what they would* "*ſell for when they arrived there.*" But this apprehenſion is greatly diminiſhed, and almoſt annihilated, by the proviſion you have ſuggeſted of chuſing theſe repreſentatives every year.

FRENCHMAN.

I think this propoſal, of chuſing the American members every year on a fixt day, with the other proviſions that have been mentioned, would compleatly avoid the objections of this eloquent writer to the meaſure of an American repreſentation ariſing from the delay of ſending the king's writ of ſummons to America, and waiting the return of it to Great-Britain, and

from

from the dangers of the neceſſary ſea-voyages, and from the accidents of an unexpected diſſolution of the parliament, or the demiſe of the crown, and even the much more ſubſtantial objections of the Americans themſelves ariſing from the danger of their members being ſeduced by emoluments received from the court to betray the intereſts of their conſtituents. But there is another difficulty or two ſuggeſted by this ingenious author, in the paſſage you juſt now read to me, which we have not yet conſidered. Now, as he is a perſon of ſuch eminent abilities and ſo diſtinguiſhed a reputation, I ſhould be glad you would give me your opinion upon thoſe difficulties as well as the former, that I may ſee whether they are any thing more than, what I ſuſpect them to be, a ſplendid, but harmleſs, meteor raiſed by the heat of his powerful imagination and eloquence.

ENGLISHMAN.

Pray, what are theſe difficulties? for I do not immediately recollect them.

FRENCHMAN.

One of them is the difficulty of determining conteſted elections. He aſks, *how it will be*

poſſible to preſerve the rights of electors, the fairneſs of returns and the privilege of the Houſe of Commons as the ſole judge of ſuch conteſts. And he then adopts theſe words. "*It would undoubtedly be a glorious ſight to have eight or ten petitions, or double returns, from Boſton and Barbadoes, from Philadelphia and Jamaica, the members returned, and the petitioners with all their train of attornies, ſollicitors, mayors, ſelect men, provoſt-marſhals, and about five hundred or a thouſand witneſſes, come to the bar of the Houſe of Commons.*" Could you not find ſome way of avoiding this formidable difficulty, or rather army of difficulties, which this author thus marſhals in array of battle againſt our propoſal?

ENGLISHMAN.

There is nothing more eaſy than to get rid of this difficulty upon the ſuppoſition of an annual election of American repreſentatives in the manner you have adviſed. For then we may obſerve, in the firſt place, that it would be a matter of no great importance whether conteſted elections were rightly determined or not. The conteſted elections are always a very ſmall number in compariſon with thoſe concerning which

which there is no conteſt. And it would little affect the intereſts of either Great-Britain or America, if, out of fourſcore members (for that is the number which I think it would be reaſonable to allow the American colonies, including the Weſt-India iſlands, to return to the Britiſh Houſe of Commons, if this meaſure of an American repreſentation were to take place,) five or ſix were to retain their ſeats in parliament for one year only, though they had been choſen by only a minority of their conſtituents, and had been falſely returned, by the officers who preſided at the elections, to have been choſen by the majority: ſo that it would be a ſafe, as well as an eaſy, practice, upon the ſuppoſition of theſe annual elections, to admit at once the member that was returned, without any inquiry before the Houſe of Commons into the merits of the election. And in the caſe of a double return, ſome equally ſummary, and even arbitrary, method might be taken to determine which of the two members ſhould keep his ſeat, without any material prejudice to the intereſt of the publick, becauſe of the ſhortneſs of the time for which the election would have been made. As to the private injury done to

the perſon who would have been unjuſtly excluded from his ſeat in parliament by the miſconduct of the returning officer, that might be compenſated in the ſame manner as all other private injuries, to wit, by an action on the caſe for damages againſt the returning officer or other perſons by whom the injury had been committed. And thus your proviſion, of having theſe elections renewed every year, would render theſe election-difficulties of little or no importance to the publick, and conſequently make the fair determination of them become unneceſſary.

But, ſecondly, this proviſion of yours would probably have a ſtill better effect. For it would *prevent* theſe difficulties. There would be *no* falſe returns, nor double returns, nor any irregular proceedings, or jockeyſhip, uſed at theſe elections, ſo long as the members were to be choſen only for a year. It would not be worth the while of either the candidates or the returning officers to incur the odium, or expoſe themſelves to the penalties, that always attend ſuch practices, for the chance of a ſeat in the Britiſh Houſe of Commons for only one year.

And,

And, thirdly, the method in which, I apprehend, theſe American repreſentatives would be choſen, would intirely preclude all poſſibility of theſe falſe or double returns, or other difficulties concerning their elections. For they would be choſen, I preſume, (at leaſt I think they ought to be ſo,) by the aſſemblies of the ſeveral colonies: and the members of every aſſembly, when they voted for one of theſe repreſentatives, ſhould ſign a commiſſion, or rather, (as we obſerved before,) two or three draughts of a commiſſion, impowering him to repreſent them in the Britiſh Houſe of Commons for the ſpace of one year and for ſuch further time as ſhould elapſe before another ſuch commiſſion ſhould be received in England. And the ſpeaker of the houſe of aſſembly, and the ſecretary of the province, or ſome other publick officer, or officers, of note in the province, ſhould atteſt the ſignatures to the commiſſion, or declare that they ſaw the members of the aſſembly make them. And no repreſentative ſhould be deemed to be elected unleſs his commiſſion had been ſigned by a majority, not only of the members of the aſſembly preſent at the election, but of all the members of which the aſſembly is compoſed.

poſed. By this manner of electing theſe repreſentatives I preſume it would be next to impoſſible that any conteſts concerning the elections ſhould ariſe. So that I think we have ſufficiently anſwered this objection of the ingenious writer, which is grounded on the difficulty of determining the elections that might happen to be conteſted.

But, I think, you hinted at another objection ſtarted by this author to this plan of an American repreſentation. Pray, let us now conſider it, that nothing that has been alledged by a gentleman of ſuch eminent abilities may be paſſed over without notice.

FRENCHMAN.

This laſt objection (for I recollect no other,) is the difficulty of finding proper perſons to be repreſentatives for the American colonies in the parliament of Great-Britain. The author ſays, "*that ſome of the moſt conſiderable provinces in America, as, for inſtance, Connecticut and Maſſachuſets Bay, have not in each of them two men who can afford, at a diſtance from their eſtates, to ſpend a thouſand pounds a year.*" And thereupon he exclaims, "*How can theſe provinces be repreſented*

repreſented at Weſtminſter? If their province pays them, they are American agents, with ſalaries, and not independent members of parliament. It is true, that formerly in England members had ſalaries from their conſtituents; but they all had ſalaries, and were all, in this way, upon a par. If theſe American repreſentatives have no ſalaries, then they muſt add to the liſt of our penſioners and dependants at court, or they muſt ſtarve. There is no alternative." What ſay you to this difficulty? which, I muſt own, does not appear to me to deſerve ſo much ſtreſs as the author lays on it. For I ſhould imagine it would be far from difficult to find a ſufficient number of very fit perſons who would be willing to repreſent the American colonies in parliament.

ENGLISHMAN.

I intirely agree with you that it would be by no means difficult to find ſuch perſons, even upon a ſuppoſition that they were to receive no ſalaries from their conſtituents. But upon this head I differ totally from this writer. For I ſhould wiſh that they might receive ſalaries from the colonies for which they ſerved;—and handſome ones too,—not leſs than £.1000 ſterling

ling a year, if their conſtituents could afford to allow them ſo much:----and for this plain reaſon, that they might not be under a temptation to accept emoluments from another quarter. I ſee nothing diſhonourable, nor dangerous to the publick welfare, in their being in this manner dependant on their conſtituents from the obligation of gratitude, any more than in their dependance on them, in the manner abovementioned, from a motive of a different kind by means of the annual return of their elections. Both circumſtances would conſpire to keep the connection between them and their conſtituents as cloſe as poſſible, which otherwiſe, from the diſtance at which they would be removed from each other, might be in danger of being relaxed. And it is remarkable that the man who moſt diſtinguiſhed himſelf in the long parliament of king Charles II. as an inflexibly honeſt man and a faithful and diligent member of parliament, I mean Andrew Marvell, the member for Kingſton upon Hull in Yorkſhire, received his wages from his conſtituents during the whole time; and was the only man in the whole parliament who did ſo. He ſerved his conſtituents with punctuality and affection, and conſtantly wrote

wrote them an account of the principal proceedings in parliament, and of the part he had taken in them: and they on their part had a ſtrong ſenſe of his fidelity and diligence in their ſervice, and the general integrity of his character: ſo that their conduct with reſpect to each other is become almoſt proverbially a pattern of the connection which ought to ſubſiſt between an upright member of parliament and his conſtituents.

But it may perhaps be further objected, that it would be too great a burthen of expence upon many of the colonies, eſpecially the northern ones, to pay their repreſentatives in parliament ſuch wages or ſalaries as would be neceſſary to induce them to undertake the office, and to enable them to maintain a decent appearance in England while they reſided there in the diſcharge of it; which could not well be leſs, as I above remarked, than £.1000 ſterling a year to each repreſentative.

Now, in anſwer to this objection, it may be obſerved in the firſt place, that many of the American provinces, as, for inſtance, the Weſt-

India iſlands, the Carolinas, Virginia, Maryland, and Penſylvania, could well enough afford this expence of a few thouſand pounds a year to reward the ſervices of their repreſentatives. And, if they could afford it, it would certainly be money extremely well laid out, and would be returned to them with advantage by the zeal and activity with which their intereſts would be ſupported in parliament.

And, ſecondly, as to thoſe colonies which could not well afford ſuch an expence, it may be anſwered, that they could eaſily find perſons who would undertake the honourable employment without any pecuniary recompence.

I know it will here be ſaid, and with truth, (as it has been by the eloquent author abovementioned) that there is not on the continent of North-America, or at leaſt in the northern half of it, an order of gentry, as in Old England, that is, of perſons of liberal education and eaſy patrimonial fortunes ſufficient to enable them to undertake honourable offices for the ſervice of their country without any pecuniary advantage;---that the richeſt people among them

them are their merchants, who cannot neglect their trade without running the riſque of being ruined;---that their landholders, though many of them own large tracts of land of thirty or forty thouſand acres, yet are either forced to keep their land in their own hands, and cultivate it by negroe ſlaves, which requires their own continual preſence and ſuperintendance; or, if they let it to tenants, to let it at ſuch very low rates, that they are unable to undertake ſo expenſive an employment as that of a commiſſioner to the Britiſh parliament without a ſalary;---and therefore that theſe colonies will not be able to procure ſuch commiſſioners

But to this it may be anſwered, in the firſt place, that in ſome of thoſe colonies there is an order of gentry very evidently riſing up, that in a couple of generations will produce a conſiderable number of perſons of ſufficient patrimonial fortunes for the purpoſe here mentioned; more eſpecially in the provinces of New York and New Jerſey, where the Engliſh law of inheritance by primogeniture takes place.

And, ſecondly, ſuppoſing that there neither now is, nor ever will be in time to come, in the colonies themſelves a ſufficient number of perſons able and willing to undertake theſe employments gratis, yet there are numbers of gentlemen in England who would be glad to undertake them, and would eſteem themſelves highly honoured by the colonies which ſhould think fit to chuſe them; and many of theſe gentlemen might be as fit for theſe employments, and as likely to ſerve their conſtituents with zeal and fidelity, as the natives of America themſelves. Three ſorts of perſons occur to me upon this occaſion as likely to anſwer this deſcription.

The firſt ſort conſiſts of ſuch perſons as have been governours, or lieutenant-governours, or chief juſtices, or commanders of garriſons or of regiments, or officers of the Crown in any other office of truſt or importance, and who have gained the confidence and good opinion of the inhabitants of the colonies in which they have ſerved during their continuance in their offices, but are ſince returned to England to ſpend the remainder of their days in their native country.

country. Theſe gentlemen would be well acquainted with the circumſtances of the colonies they had belonged to, their conſtitutions, genius, laws, and trade, and would be the moſt able and intelligent commiſſioners in parliament that they could chuſe: and it may well be ſuppoſed that they would likewiſe retain an affection for the people amongſt whom they had ſpent a conſiderable part of their lives, and from whom they had received ſo honourable a mark of confidence and eſteem.

The ſecond ſort conſiſts of the Engliſh merchants, reſiding at London or elſewhere in England, who trade to the ſeveral colonies in America. Theſe perſons would underſtand at leaſt the mercantile intereſts of the colonies they traded to, and would be ſincerely concerned for their welfare, with which their own intereſts would have ſo cloſe a connection; as was experienced at the time of the repeal of the ſtamp-act, and for ſome years after, in the zeal with which the London merchants concerned in the trade to America ſupported the then claims of the Americans. And there is no doubt that theſe Engliſh merchants would gladly

gladly undertake the office of commiſſioners of the colonies, to which they traded, in the Britiſh parliament without a ſalary.

The third ſet of perſons who would, as I conceive, be glad to undertake theſe employments without a ſalary, are Engliſh gentlemen of independent fortune; who would, as I conjecture, employ part of their wealth in the purchaſe of landed eſtates in the American colonies, and would go and reſide upon them for a few years, in order to acquire a knowledge of the concerns of the provinces in which they were ſituated, and recommend themſelves to the inhabitants of thoſe provinces as fit perſons to repreſent them in the Britiſh parliament. This would be of advantage to the provinces in which theſe purchaſes were made, in two reſpects: firſt, by the money it would bring into thoſe provinces to make the purchaſes with, which would quicken trade and induſtry: and ſecondly, by promoting a friendly intercourſe between the inhabitants of thoſe provinces and thoſe of Great-Britain, when the ſame perſons would often be proprietors of land in both countries, and conſequently would have occaſion

to

to go from the one to the other to inſpect the condition of their property, which would doubtleſs be followed by perſonal friendſhips between the reſidents of both countries and their reſpective families, and often by intermarriages; which are grounds and means of union that ought by no means to be diſregarded by two remote branches of the ſame nation that ſincerely deſire to continue under the ſame dominion.

From ſome of theſe three claſſes of men reſiding in Great-Britain, the Americans would always be able to chuſe a ſufficient number of intelligent and faithful commiſſioners to repreſent them in the Britiſh parliament.

Theſe are my reaſons for thinking that there would be no difficulty in finding a ſufficient number of fit perſons to repreſent the American colonies in parliament.

FRENCHMAN.

I think you have made it very plain that ſuch perſons might eaſily be found. And thus we have got rid of all the objections made to the

the meaſure of an American repreſentation by this celebrated author. But, pray, inform me what are the objections made to it by that other learned writer whom you mentioned ſome time ago, and whom I think you called Doctor Tucker? For I am curious to know every thing that has been ſaid againſt a meaſure that hitherto appears to me to be at once ſo eaſily practicable, and ſo highly beneficial to all parties.

ENGLISHMAN.

Dr. Tucker's objections are grounded ſingly on his opinion of the ill temper of the Americans, and their indiſpoſition to ſubmit to the authority of the Britiſh parliament upon any terms or conditions that can poſſibly be propoſed. In this way of thinking he inſiſts poſitively that, if the Americans were permitted to ſend members to the Britiſh parliament, and were actually to ſend them, yet they would ſtill find ſome pretence or other to refuſe to pay obedience to it's acts. He therefore thinks that the wiſeſt ſtep Great-Britain can take with reſpect to the Americans, ſince ſhe finds it ſo impracticable to govern them, is to turn them off,

off, and give them full liberty to ſet up for themſelves as independent ſtates, with ſuch forms of government as they themſelves ſhall think fit to adopt.

FRENCHMAN.

This ſeems to be a haſty way of proceeding, and ought, methinks, to be poſtponed till ſome attempts have been made to reconcile the contending parties, either by this, or ſome other, plan of an union or agreement, and have been found to be ineffectual. The mutual benefits ariſing to both from their preſent connection, imperfect as it may be, ſeem to be too great to be thus peeviſhly thrown away.

ENGLISHMAN.

I believe moſt people are of that opinion. But the doctor is a man of a warm temper, and who eagerly purſues what appears to him to be the truth, how different ſoever it may be from the ſentiments of other men. And upon this ſubject he is confident that he has examined all the other methods of acting which Great-Britain can purſue with reſpect to the American colonies, and has found them to be

attended with much greater inconveniences than his plan of a voluntary ſeparation.

FRENCHMAN.

But does he give no reaſons in ſupport of his opinion, that the Americans would refuſe to pay obedience to the Britiſh Parliament, if they themſelves had been permitted, and had conſented, to ſend members to it? For, as the experiment has not yet been tried, he can hardly expect to make converts to this opinion, without alledging ſome plauſible arguments in its favour.

ENGLISHMAN.

I do not recollect that he alledges any other circumſtance in ſupport of this opinion, beſides the uneaſy and turbulent conduct of the Americans of late years in oppoſition to the authority of parliament, with reſpect to the ſtamp-act and ſome other exertions of it over them.

FRENCHMAN.

I cannot think that to be a ſatisfactory way of reaſoning. For, though they have reſiſted

an

an authority which they think unlawful and ill-grounded, it does not follow that they would reſiſt an authority which they would have acknowledged to be legal, and in the erection and conſtitution of which they would have had a ſhare; which would be the caſe with the Britiſh parliament when they ſhould have ſent repreſentatives to ſit and vote in it.

ENGLISHMAN.

I agree with you that this reaſoning is by no means concluſive: and therefore, notwithſtanding the doctor's ſuggeſtion, I muſt ſtill take the liberty to wiſh, that this experiment had been tried by admitting a competent number of members from the American colonies into the Britiſh parliament. But this is what I deſpair of ever ſeeing, becauſe (as I obſerved ſome time ago) there is a viſible diſinclination in both the parties, the inhabitants of Great-Britain as well as thoſe of America, to come into ſuch a meaſure.

FRENCHMAN.

It is much to be lamented, that there ſhould be ſuch a diſinclination to adopt what ſeems

to be the only method of producing a laſting reconciliation between theſe two great branches of the Britiſh empire. Nor is it leſs a matter of ſurpriſe to me, that there ſhould be ſuch a diſinclination, when the meaſure ſeems to have had the approbation of two ſuch able men of the two oppoſite parties as the late Mr. Grenville and Dr. Franklin; and when the objections that have been made to it by Dr. Tucker and Mr. Burke appear either to be of little weight, or to be ſo eaſily capable of being removed as we have ſeen. There muſt ſurely be ſome reaſons which you have not yet mentioned, that give occaſion to this ſtrange averſion.

ENGLISHMAN.

I am inclined to think there are ſuch reaſons: but what they are, I proteſt I am unable to inform you, unleſs they proceed from a ſort of mutual jealouſy and diſtruſt in the two parties; and, perhaps, on the part of Great-Britain, a degree of pride and contempt of the Americans, together with an averſion to, and dread of, making innovations in her conſtitution, and, on the part of America, an apprehenſion that their intereſts would be ſacrificed to

thoſe

thoſe of Britain, not only by means of the corruption of their repreſentatives by the crown, as I obſerved before, but alſo by means of the great ſuperiority of the number of the Britiſh repreſentatives in the Houſe of Commons above thoſe that would be ſent from the American colonies; who, by the largeſt allowance that has ever been propoſed for that purpoſe by thoſe who have recommended this meaſure, would not exceed fourſcore members for all America, including the Weſt-India iſlands. But theſe are mere conjectures, in which it is very poſſible I may be miſtaken, there being no other reaſons publickly declared and acknowledged by either of the contending parties, againſt this meaſure, beſides thoſe which we have already conſidered, and to which we think we have found ſufficient anſwers.

FRENCHMAN.

There is no arguing againſt jealouſy and diſtruſt; and therefore I ſhall trouble you no further upon the ſubject, except only to aſk you one queſtion, which occurs to me in conſequence of what you laſt mentioned as an apprehenſion which would probably be entertain'd by

by the Americans, in caſe this meaſure of an American repreſentation were likely to be adopted: I mean, the danger that the American repreſentatives would be over-borne by the ſuperiour number of the repreſentatives choſen for Great-Britain, in all points in which the intereſts of America were concerned. Now this brings to my mind the caſe of the Union of Scotland with England by a ſimilar admiſſion of repreſentatives from the former into the parliament of England, or, as it now called, the parliament of Great-Britain, in the beginning of the preſent century. Pray, are the members for Scotland more than fourſcore in number? and are the intereſts of Scotland ſacrific'd to thoſe of England by means of the much greater number of repreſentatives for England of which the Britiſh parliament is compoſed? For, if this ſhould be the caſe, I think it would tend to juſtify the apprehenſion you ſuppoſe the Americans to entertain upon this ſubject: but, if otherwiſe, it ought to have the contrary effect.

ENG-

ENGLISHMAN.

Your queſtion is a very proper one; and the anſwer to it is both very eaſy and very favourable to the meaſure we approve. The number of members ſent from Scotland to the Britiſh Houſe of Commons is not fourſcore, but only forty-five; and thoſe which are choſen for England and Wales are five hundred and thirteen. And yet it is an indiſputable fact, that the intereſts of Scotland have never been poſtponed to thoſe of England by the parliament of the united kingdom, nor the leaſt partiality ſhewn in favour of the latter. On the contrary, the Scots enjoy advantages by the treaty of union above the Engliſh. For, though the extent of their country is more than one fourth part of the whole iſland of Great-Britain, and the number of their people is more than a ſixth part of the people on the whole iſland, and the number of their repreſentatives in the Houſe of Commons is more than one thirteenth part of the whole houſe, yet they pay leſs than the fortieth part of the land-tax paid by the whole iſland. And, though the value of their lands has, during the laſt thirty years,

been

been conſtantly increaſing at a vaſt rate,—much faſter than that of land in England,—yet no endeavour has been made to increaſe their proportion of this common burthen. And in a great variety of inſtances the intereſt of Scotland has been conſulted and promoted by the Britiſh parliament, ſince the happy union of the two kingdoms, in a manner that intirely removes all ſuſpicion of partiality to their diſadvantage. And no one will pretend to deny that the inhabitants of that part of the iſland have likewiſe ever enjoyed, and continue ſtill to enjoy, their full ſhare of the favours of the crown in preferments of various kinds in all parts of the Britiſh dominions.

FRENCHMAN.

Since this is the caſe with reſpect to Scotland, and forty-five members choſen for that country into the Britiſh Houſe of Commons, acting zealouſly for the good of their conſtituents and countrymen, have been found, during the ſpace of ſeventy years which have elapſed ſince the union of the two kingdoms, to be able to procure ſuch advantages for them, I cannot ſee upon what grounds the Americans ſhould

ſhould apprehend that a body of fourſcore members, ſitting in the ſame houſe as repreſentatives of them and the inhabitants of the Weſt-India iſlands, and made more dependent upon their conſtituents than the Scotch members are upon theirs, by the neceſſity of being annually re-elected, would not be able to procure ſimilar advantages for the colonies for which they would be choſen. Surely no good reaſon can be given for their entertaining ſuch a doubt.

ENGLISHMAN.

I allow that your concluſion ſeems very fair, and that the Americans ought to reaſon from the caſe of Scotland in the ſame manner that you do. And I may even go further in favour of the meaſure we are here conſidering, and affirm, that the experiment has been already tried in ſome degree with reſpect to America itſelf, and that the event has been found to be highly beneficial to it. For, though no members have hitherto been choſen by any of the colonies in America, yet ſeveral of the rich proprietors of the Weſt-India iſlands, who have reſided in England, have been elected into par-

liament for Engliſh boroughs; and, even in this mode of admiſſion, they have been thought to have had ſufficient influence in parliament to obtain many important favours for that part of America with which they were connected, ſo as even to excite the jealouſy of their northern neighbours on the continent or North-America: for the latter have often complained of the partiality ſhewn by the mother-country to the Weſt-India iſlands in matters relating to the trade of America, and have aſcribed it to the very circumſtance here mentioned, of their having ſeveral of their principal proprietors elected into the Britiſh Houſe of Commons. It ſeems reaſonable therefore to conclude, that the admiſſion of a conſiderable number of repreſentatives, or commiſſioners, into the Houſe of Commons, regularly choſen by the ſeveral colonies themſelves, and continually dependant upon them for a re-election the next year, could not fail of being an effectual ſecurity to thoſe colonies againſt any unjuſt or oppreſſive proceedings of the parliament of Great-Britain. And yet I am afraid this meaſure will never be adopted: ſo general is the diſinclination towards it that ſeems to have taken poſſeſſion of both the contending parties.

FRENCH-

FRENCHMAN.

I muſt again lament that ſuch an unfortunate and unaccountable prejudice ſhould prevail againſt ſo uſeful a meaſure. But, ſince it does prevail, I think the parliament of Great-Britain ought to be very ſparing and tender in the uſe of their authority over the colonies, and, as they are conſcious of their own unwillingneſs to permit the colonies to ſhare in that authority by ſending repreſentatives to ſit and vote amongſt them, to conſider the colonies as having made that moſt juſt and reaſonable requeſt, and having received a refuſal of it.

Equity and expedience of exerting the authority of parliament over America in a very ſparing and tender manner.

ENGLISHMAN.

I intirely agree with you. Good policy, as well as juſtice, requires that they ſhould treat the colonies in that manner; and without it I am convinced they will not be able to preſerve their authority over them, at leaſt not without the aſſiſtance of a large ſtanding army to be conſtantly kept up amongſt them, the expence of which, together with the other inconveniences and dangers attending it, would greatly

Inconveniences that would attend an attempt to govern North-America by means of a ſtanding army.

over-balance the advantages reſulting from ſuch a poſſeſſion of them.

FRENCHMAN.

Such an attempt would be contrary to the free ſpirit of the Engliſh conſtitution.

Such a poſſeſſion of America would be quite inconſiſtent, as I conceive, with the ſpirit of the Engliſh conſtitution, which, as I have always heard, is founded on general conſent and the good-will of the people, and is averſe to the uſe of ſtanding forces, except in time of war and againſt foreign enemies. And, if we conſider the great extent and populouſneſs of North America, it will be evident that it is not a ſmall army that will be ſufficient to keep its inhabitants in ſubjection againſt their will. I conceive that it would require at leaſt forty thouſand men to do ſo, including the troops kept in this province and in Florida, and in the diſtant poſts in the upper country amongſt the Indians. And even with ſuch an army the poſſeſſion of America by the crown of Great-Britain, againſt the will of its inhabitants, would become every year more and more precarious, by reaſon of the great and continual increaſe of their numbers, which are found to be doubled in every twenty, or five and twenty, years.

And it would require an army of at leaſt forty thouſand men.

ENG-

ENGLISHMAN.

Oh! 'tis a moſt prepoſterous idea, to think of keeping America in ſubjection by means of a ſtanding army! and nothing but a ſpirit of frenzy (ſuch as we ſee ſometimes poſſeſs a nation, and hurry it into irretrievable misfortunes) can ever make the parliament of Great-Britain entertain ſuch a deſign. And the expence of it (if it is poſſible to carry ſuch an attempt into execution) would moſt certainly exceed all the advantages which either the trade or the revenue of Great-Britain could receive from ſuch a poſſeſſion of this continent. It would probably not be leſs than a million of pounds ſterling a year; which would require either a perpetual addition of two ſhillings in the pound to the land-tax of Great-Britain, according to the preſent mode of aſſeſſing it, or an increaſe of the other taxes of the kingdom to the ſame amount, which (conſidering the numerous and high taxes upon almoſt every article of conſumption and of pleaſure already ſubſiſting in England,) would be ſtill more burthenſome to the nation than ſuch an increaſe of the land-tax. I wiſh the landed gentlemen of England would conſider with themſelves whether it is worth their while to preſerve

The probable expence of keeping ſuch an army in America.

The land-tax muſt probably be augmented from four to ſix ſhillings in the pound.

preſerve the Americans in a ſtate of obedience to parliament at the expence of an additional and perpetual land-tax of two ſhillings in the pound, and thereby to make the augmentation of the land-tax from four to ſix ſhillings in the pound become almoſt a neceſſary meaſure. It would cure them of that rage of conqueſt and dominion over their American fellow-ſubjects with which (if we may judge by ſome of the late acts of parliament, and particularly the Boſton-charter act and the Quebeck act,) they ſeem of late to be infected.

FRENCHMAN.

Other difficulties of an attempt to govern North-America by force.

You have only conſidered the expence of keeping them in ſubjection, when reduced to the obedience of the parliament, to which now they ſeem ſo generally unwilling to ſubmit. But what, think you, will be the expence of reducing them to that obedience, if it is in the power of Great-Britain to reduce them to it? And is it certain that ſhe can ſo reduce them, if unmoleſted by foreign nations in the neceſſary exertions for that purpoſe? And will the rival nations of France and Spain permit her to

to continue unmoleſted while ſhe is making theſe exertions? Is it not more probable that they will interfere in the courſe of them in ſupport of the Americans?

ENGLISHMAN.

You oppreſs me with this multitude of alarming, but very proper, queſtions; every one of which ſuggeſts a reaſon againſt proceeding to ſo dangerous an undertaking as that of reducing America by force of arms to the compleat obedience of parliament. For, in the firſt place, when we conſider the great expence and difficulty of tranſporting an army of forty or fifty thouſand men acroſs the Atlantick ocean, and maintaining them in a great meaſure by proviſions ſent from England and Ireland;—and the great difficulty of ſubduing a people that are ſpread over ſo large a country as North-America, (even ſuppoſing them not to have courage enough to meet the Britiſh army in the field,) by reaſon of the opportunity, which its extent will afford to the Americans, of keeping one or more armies on foot in thoſe places and provinces which are out of the reach of the invading

Of the expence of reducing America to obedience by force of arms.

ing army, and of harraſſing the latter by deſtroying the country and leſſening the means of their ſubſiſtence; and alſo, when the invading army ſhall come to be ſeparated into ſmall bodies (in order to take poſſeſſion of the different poſts and countries that will be abandoned to them, and to go into winter-quarters,) by falling upon theſe ſmall bodies by ſurprize and with advantage;——and the protraction of the war, which will probably be the effect of theſe difficulties;——I ſay, when we conſider theſe and many other circumſtances that will tend to make ſuch a war expenſive to Great-Britain, we can hardly eſtimate the whole expence of it, before the Americans are brought to a general ſubmiſſion, at leſs than twenty-five, or thirty, millions of pounds ſterling, which will bring on the Engliſh nation the perpetual burthen of another million ſterling a year for the intereſt of it, over and above the million a year above mentioned to be neceſſary for maintaining the additional ſtanding army that muſt be kept up amongſt them to maintain the ſuperiority ſo acquired. And thus the retaining America in ſubjection by force will occaſion a burthen on the revenue of Great-Britain of two millions of pounds

This expence will probably not be leſs than twenty-five, or thirty, millions of pounds ſterling; the intereſt of which is about one million ſterling a year for ever.

Therefore the reduction of America to obedience by force of arms, and the retaining it in ſubjection by the ſame means, when reduced, will coſt Great-Britain two millions of pounds ſterling per annum for ever.

pounds ſterling *per annum* for ever;——a burthen, which no advantages to be derived from either the trade or the taxes that can be levied in America, will in any degree compenſate.

The attempt to reduce America to obedience by force of arms will probably fail of ſucceſs.

This will be the reſult of ſucceſs in this diſmal conteſt. But this is an event that appears to me by no means certain, not even though no foreign powers ſhould interpoſe in ſupport of the Americans. Indeed, if the Americans ſhould come any thing near to the Britiſh troops in courage;——if ten thouſand of them ſhall dare to engage with four or five thouſand of the latter in the open field; or if they ſhall only have ſufficient reſolution to defend ſtrong entrenchments againſt them;---I would not ſcruple to pronounce them invincible by all the force that Britain can ſend againſt them. And even, if they ſhould fail in this eſſential quality of ſoldiers and patriots, they will ſtill have ſome chance of ſucceeding againſt Great-Britain from the probability that great numbers of the troops that ſhall be ſent againſt them will deſert ſo diſagreeable a ſervice, and either carry arms on their ſide of the queſtion, or (which is more probable) retire to the interiour parts of the

Probability of a great deſertion among the troops that will be ſent over by Great-Britain to America for that purpoſe.

country, and ſettle themſelves as planters upon ſuch lands as the Americans will undoubtedly offer to beſtow on them. For theſe troops, it is probable, will either be Engliſhmen or Germans. If Engliſhmen, they will probably feel ſome reluctance at making war upon people of the ſame religion and language with themſelves, who are fighting for what they conceive to be their juſt rights and liberties, tho' perhaps their pretenſions have in ſome reſpects been carried too far. And as to the Germans, they, it is probable, will be very little concerned about the grounds and merits of the quarrel; but, when they find themſelves in Penſylvania, where no leſs than 150,000 of their countrymen are happily ſettled as planters, will think it a more deſireable condition to partake with them in the enjoyment of the plenty and happineſs of which they will find them poſſeſſed, than to employ their valour in deſtroying it. A deſertion of this kind (which ſeems to me by no means improbable, as ſoon as the invading army ſhall have advanced a conſiderable diſtance into the country, and be ſeparated into many different bodies,) together with the uſual wear and tear of an army, (which, without any fighting, is reckoned to conſume

Of the Engliſh troops.

Of the Germantroops.

conſume a fifth part of the troops that compoſe it every year,) would ſoon waſte away the army ſent by Britain, and reduce it to the neceſſity of acting on the defenſive in ſome ſingle ſmall diſtrict of America; which would ultimately bring on a neceſſity of abandoning the enterprize. And if, to avoid the danger of ſuch a deſertion as I have been ſpeaking of, the miniſtry of Great-Britain ſhould adopt that moſt unconſtitutional meaſure of arming the Roman-Catholicks of Ireland for this ſervice, it would only increaſe the animoſity and reſentment of the proteſtant colonies in America againſt Great-Britain, and make an accommodation with them more difficult than before, or rather utterly impracticable, but would not much contribute to the reduction of them. For even theſe Roman Catholicks would find provinces in America where they would be glad to ſettle as planters amongſt people of their own religion, and others who, though not of their religion, would be perfectly well diſpoſed to give them the full liberty of exerciſing it without the ſmalleſt moleſtation or inconvenience. In Maryland there are great numbers of people of that religion who are perfectly ſatisfied with their

Of Roman-Catholick Iriſh troops.

condition, though the government is, as I have heard, carried on by the Proteſtants only, but with the full conſent and approbation of the Roman-Catholicks, who think their temporal intereſts ſafer in the hands of their Proteſtant countrymen than they would be in their own. And in Penſylvania the Roman-Catholicks are ſo far from being perſecuted, or oppreſſed, that they are not ſo much as excluded from the civil offices of the province; but all who believe in a God, the Supreme Creator of the world, are admiſſible to them. And no tythes, or other church-dues, are paid in that province to the prieſts, or miniſters, of any religion; but they are all maintained either by the rents of lands bequeathed for that purpoſe by pious perſons of their ſeveral perſuaſions, or by the free and voluntary contributions of their reſpective congregations, as was the caſe in Canada in that happy interval (the termination of which you ſo juſtly regret,) between the conqueſt of it by the Britiſh arms under the wiſe and humane Sir Jeffery Amherſt, and the late act for regulating the government of Quebeck, which has revived the legal obligation to pay your prieſts their tythes, under which you lay in the time of

of the French government. It can hardly be ſuppoſed that the Iriſh Roman-Catholicks would act with vigour againſt people who were ſo diſpoſed towards perſons of their religion: but it may rather be preſumed that they would be glad to obtain ſettlements among them, and partake of the benefit of ſo mild and generous a government. In ſhort, as the Canadians, (who are full as much attached to the Roman-Catholick religion as the Iriſh Catholicks, and who ſpeak a different language from their neighbours in the Engliſh colonies, and were ſome years ago ſo much prejudiced againſt them, and accuſtomed to conſider them as their rivals and natural enemies, and engaged in arms for their deſtruction,) are now ſo averſe to the thought of being employed by the government to act againſt the Engliſh colonies, notwithſtanding the utmoſt endeavours of their prieſts to animate them to it; and are even ſuſpected of wiſhing well to the cauſe of the Americans in the approaching conteſt, and of being ready to receive them with open arms in caſe they ſhould invade this province; I can never be brought to think that an army of Iriſh Catholicks (if Great-Britain ſhould take the deſperate

reſolution

reſolution of employing ſuch an one againſt the Americans,) would anſwer the views of thoſe who ſhould employ them in this ſervice. And thus, even though the Americans ſhould prove very deficient in courage, it ſeems probable that Great-Britain may fail of ſucceſs in her endeavours to ſubdue them; which is the moſt favourable ſuppoſition for the cauſe of Great-Britain that can be made.

Probability that the French will aſſiſt the Americans before they are reduc'd to obedience.

But, if we ſuppoſe what ſeems more likely, that the Americans, though they at firſt may fly before the troops of Britain, by degrees ſhould acquire courage enough to face them, (and courage, you well know, is very much the effect of habit;) and that France ſhould, in the middle of the conteſt, (when the contending parties ſhall have been too much exaſperated againſt each other by the miſchiefs they ſhall mutually have inflicted, to leave any chance of an accommodation between them,) take part with America againſt Britain, (which I conſider as an event that is almoſt certain,) the failure of the latter in her attempt to ſubdue the colonies will then be beyond a doubt; and the farther diſgrace of her arms and ruin of her wealth

wealth and commerce, when America ſhall be put into the ſcale againſt her, will alſo be but too probable. Such is the tendency of this fatal war which Great-Britain ſeems now meditating againſt her colonies.

FRENCHMAN.

The difficulties you have mentioned in the ſyſtem of governing America by mere force, confirm me in my opinion that ſuch a project is moſt abſurd and ridiculous, and would prove moſt deſtructive to Great-Britain if ſhe ſhould be unfortunate enough to adopt it. But this is upon a ſuppoſition that the whole continent is united in oppoſition to her. For, if there ſhould be a conſiderable party in the principal colonies diſpoſed to acknowledge and ſupport her authority, I ſhould think her proſpect of reducing the reſt to ſubmiſſion, by ſending a body of troops to maintain her authority, would not be a very bad one, even though the diſcontented party were rather the more numerous. Suppoſe, for inſtance, that a third part of the people in every province were well-diſpoſed to Great-Britain, might not theſe ſo far counter-act the

Inquiry concerning the opinion that has been entertained by ſome people, that there is a conſiderable party amongſt the Americans well-diſpoſed towards Great-Britain.

deſigns

deſigns of the other two thirds, as, with the help of an army of fifteen or twenty thouſand men, to ſuppreſs any attempts that they might make to riſe in arms againſt the authority of Great-Britain? I ſhould incline to think they might: I ſhould therefore be glad to be informed whether there is any conſiderable body of people in any of the provinces diſpoſed to ſupport the authority of the mother-country.

ENGLISHMAN.

There is no ſuch party amongſt the Americans.

As I have lately been reſident in the neighbouring Engliſh provinces, I can ſafely venture to aſſure you that there is no ſuch party. The Americans are all enemies to the claims and pretenſions of Great-Britain: and the only diſtinction to be made between different parties of them is that of active and paſſive enemies to thoſe pretenſions. The former are inclined to oppoſe the authority of Great-Britain by force of arms, and are preparing themſelves for ſuch a conteſt: but the latter (amongſt whom are the Quakers of Penſylvania, and ſeveral perſons of other religious perſuaſions in many of the provinces, who are poſſeſſed of a conſiderable ſhare of property which they are unwilling to expoſe

expoſe to the riſks of war, and more eſpecially ſeveral of the merchants in the great trading towns,) wiſh to avoid ſo terrible an event, and would rather proceed by petitions and repreſentations, or, perhaps, by combinations not to import goods from Great-Britain, (as on other late occaſions,) to obtain ſatisfaction for their grievances; and, in caſe theſe methods ſhould fail of ſucceſs, would even ſubmit to bear thoſe grievances ſooner than have recourſe to arms for their removal. But none of them are willing to acknowledge the authority of the Britiſh parliament in all its extent, and to aſſiſt any army that ſhould be ſent to America to ſupport it.

And even theſe paſſive enemies of this authority ſeem to me much fewer in number than the other party who are preparing to riſe in arms in oppoſition to it. So far is it from being true that there is any ſuch conſiderable party as you ſpoke of amongſt the Americans diſpoſed to controul the efforts of their countrymen in oppoſition to the claims of the Britiſh parliament, and to aſſiſt a Britiſh army in the maintenance of that authority.

FRENCHMAN.

I aſked the queſtion more for the ſake of information than from any opinion I had formed that there was ſuch a party. For by all the late accounts I had heard of their proceedings, I was rather inclined to think that there was not. Yet I cannot but be ſurprized that there are ſo few perſons in America diſpoſed to acknowledge the authority of the parliament, when I conſider the powerful arguments in ſupport of that authority which you have ſet forth in the courſe of this converſation;----the expreſs words of the charter of Penſylvania;---the ſtrong implications of other charters;---the grounds and reaſon of ſuch authority ariſing from the nature of colonies, or dependant governments;---and the conſtant and undiſputed exertions of it for a variety of different purpoſes, though not for that of internal taxation: for this, I am told, has been the caſe for more than a hundred years paſt, and without any complaint of the Americans with reſpect to the want of authority in the Britiſh parliament to make them.

ENG-

ENGLISHMAN.

It certainly is as you have heard. The parliament has made a variety of laws concerning America, without the ſmalleſt doubt in any of the Americans of their legal authority to make them. It has reſtrained the trade of the Americans by the act of navigation and ſeveral other ſtatutes;——impoſed duties upon the importation of ſugars and molaſſes into their ports;——erected a poſt-office throughout America, with certain rates of money to be paid for the poſtage of letters; which, by the bye, partakes of the nature of a general internal tax upon its inhabitants;——forbid the Americans to make uſe of mills for ſlitting iron, or to carry either woollen manufactures, or hats and felts, from one province to another;——made freehold lands liable to be ſold in execution of judgements for debt, in the ſame manner as moveable goods;——and paſſed many other acts of great importance relating to the Americans, without any objection on the part of the latter to the inſufficiency of their juriſdiction, though they have ſometimes complained that the acts themſelves were too ſevere, as, I believe,

The Americans themſelves, till within theſe laſt ten or twelve years, uſed to acknowledge the legiſlative power of the Britiſh parliament in its full extent, even with reſpect to the impoſition of internal taxes.

was the caſe with reſpect to the act againſt ſlitting-mills. Nor did they till of late years diſpute the right of the Britiſh parliament even to impoſe internal taxes on them, as appears in a moſt ſtriking manner from the following paſſage of a pamphlet written by Mr. Otis, the celebrated lawyer of Boſton, who was ſo active in the year 1765 in encouraging the oppoſition to the ſtamp-act. "It is certain that the parliament of Great-Britain hath a juſt, clear, equitable, and conſtitutional right, power, and authority to bind the colonies by all acts wherein they are named. Every lawyer, nay, every tyro, knows this. No leſs certain is it that the parliament of Great-Britain has a juſt and equitable right, power and authority, *to impoſe taxes on the colonies, internal and external, on lands as well as on trade.*" This pamphlet was publiſhed in that very year 1765, in which the ſtamp-act paſſed, but, as I ſuppoſe, before the news of its being paſſed had reached America. The foregoing paſſage of it is cited from ſome letters ſigned *Maſſachuſettenſis*, that were publiſhed in the news-papers at Boſton in the Maſſachuſet's Bay in the beginning of this preſent year, 1775. For I have not ſeen

Mr.

Mr. Otis's pamphlet itſelf in which they were originally contained. So that it appears that ſo lately as ten years ago, the univerſal authority of the Britiſh parliament over the colonies, even in the article of internal taxation, was acknowledged in America by the warmeſt advocates for publick liberty.

FRENCHMAN.

This having been the general opinion of the Americans till within theſe few years paſt, I cannot but be ſurprized at the great revolution that ſeems to have happened in their ſentiments, and ſhould be glad to know the cauſes that have produced it.

ENGLISHMAN.

An account of the change of opinion amongſt the Americans upon this ſubject of late years.

It is not eaſy to account with much exactneſs for this general change of the publick opinion. However, as I have lately reſided in thoſe provinces, and have heard a great deal of converſation upon the ſubject, I will mention to you all I have obſerved, or been able to collect from information, concerning it.

In the year 1764, during the adminiſtration of Mr. George Grenville (whom we have more than

than once had occaſion to mention already,) an act was paſſed by the parliament of Great-Britain for regulating the trade of North-America in a ſtricter manner than had been practiſed before, and preventing the prodigious quantity of ſmuggling, or illicit trade, which had taken place in all the ports of the continent until that time; the preceding ſtatutes upon that ſubject having always been very indulgently, or rather very negligently, executed. And, amongſt other checks to the former practices of the traders of America, a ſtop was put to a certain very beneficial, though illicit, intercourſe with the Spaniards of Mexico, by which a great quantity of ſilver dollars uſed to be brought into the Engliſh provinces. This was a trade which it would better have become a Spaniſh miniſter of ſtate than an Engliſh one to be active in preventing; and the ſtopping it has univerſally been cenſured as a very impolitick meaſure, whoever was the occaſion of it. For I have heard that Mr. Grenville denied that he had ever given any orders for that purpoſe, and ſaid it was owing to a miſtake of the meaning of the orders which the Board of Admiralty had given to the King's ſloops that were employed

in

in ſupporting the execution of the cuſtom-houſe laws, and preventing the illicit trade of America. But, whoever is to be conſidered as the author of the meaſure, it is certain that the meaſure itſelf (though it was very ſoon after corrected) had very bad effects, and raiſed great complaints in America, and, with the other laws then paſſed for the better execution of the laws of trade and prevention of ſmuggling, indiſpoſed moſt of the trading part of it againſt Great-Britain. Yet, as theſe laws related only to the regulation of their trade, (which had always been conſidered as ſubject to the controul of the Britiſh parliament,) they only complained of the ſeverity or inexpedience of them, but did not object to the authority by which they were made. But, while their minds were thus irritated againſt Great-Britain, they were told from Mr. Grenville that another act would ſoon be paſſed by parliament for impoſing a ſtamp-duty upon them to defray a part of the expence of the military eſtabliſhment in America, unleſs they ſhould render ſuch a meaſure unneceſſary by raiſing the ſame ſum of money amongſt themſelves by grants of their own aſſemblies. And, agreeably to this declaration of Mr. Grenville,

Of the ſtamp-act in 1765.

ville, the ſtamp-act was paſſed in the ſpring of the following year 1765, they having refuſed, or neglected, to raiſe the propoſed ſums by their own aſſemblies. This (though you and I are of opinion that it was neither an illegal nor an oppreſſive meaſure,) was a meaſure of a new kind or complexion, to which the Americans had not hitherto been accuſtomed. It was raiſing an internal tax upon them, without any view to the regulation of their trade. This therefore afforded a plauſible handle to their popular writers and orators to complain of Great-Britain upon a new ground, as claiming and exerting a new kind of authority over them. The claim certainly was not new, though the exertion of ſuch authority was ſo, Great-Britain having never before either thought the American provinces worth taxing, or had occaſion to raiſe taxes on them. Upon this occaſion the attention of the whole body of the people of America was turned (for the firſt time, probably, ſince the eſtabliſhment of the colonies,) to the conſideration of the relation they ſtood in to Great-Britain; and they were taught by their writers and popular leaders to believe that, becauſe they did not ſend repreſentatives to the Britiſh

Britiſh parliament, they were not, with reſpect to internal taxation, ſubject to its authority. They confined their claim of exemption to internal taxes, becauſe theſe were a ſort of novelty amongſt them, there being no act of the Britiſh parliament then in force amongſt them, by which any internal tax was levied upon them, except the poſt-office act, which was but indirectly ſo. And they thought it would be too great a ſtride to take, in their firſt oppoſition to Great-Britain, to pretend to an exemption from the authority of the parliament upon every ſubject, when they knew they had lived for an hundred years paſt in the conſtant habit of obeying its acts upon a variety of other ſubjects, and, amongſt others, its acts for the impoſition of port-duties, or external taxes upon the importation and exportation of goods. They therefore prudently confined their claim of an exemption from the authority of parliament to the ſingle ſubject of internal taxes, though the circumſtance they alledged as the ground of it, to wit, their not having the privilege of ſending repreſentatives to it, would have done equally well for a ground of exemption from its authority in every other article, ſince it is as much

The Americans deny the right of the Britiſh parliament to impoſe internal taxes on them.

the birth-right of an Engliſhman not to be bound to obey any laws but ſuch as are paſſed with his own conſent, given by himſelf or his repreſentative (either real or virtual) in the Houſe of Commons, as not to be obliged to pay any taxes but what are granted by himſelf or his repreſentative in the ſame manner. This doctrine of the want of authority in the Britiſh parliament to impoſe internal taxes on the Americans, on account of the want of repreſentatives in it choſen by the colonies, ſeems to have made a very ſtrong and very general impreſſion on the minds of the coloniſts, and to have been received by them almoſt as ſoon as it was propoſed, notwithſtanding the general opinion that had juſt before prevailed among them (as appears from the words of Mr. Otis above-recited) that the parliament of Great-Britain had a right to make any ſort of laws for the American colonies, as much as for Great-Britain itſelf. And it ſeems probable that the general diſcontents ariſing from the former acts of the year 1764, already mentioned, together with the love of independency which is natural to the mind of man, (and which in the caſe of the Americans was heightened by the conſciouſneſs

conſciouſneſs of their growing ſtrength and numbers) and the general averſion which all people have to laws of taxation, were the motives that ſecretly influenced them to embrace this new doctrine ſo eagerly, and to conſider the circumſtance on which it is grounded, to wit, the want of repreſentatives in the Britiſh parliament, as affording ſo irrefragable a proof of it. But, whether from theſe or other cauſes, it is certain that this plauſible argument for the want of juriſdiction in the Britiſh parliament to impoſe internal taxes on America, derived from the want of repreſentatives choſen by the colonies, was ſuddenly, and almoſt univerſally, adopted by the Americans upon that occaſion, and has ever ſince been deeply rooted in their minds as a fundamental article of their political belief. This was the firſt ſtep taken by the Americans towards an exemption from the authority of the Britiſh parliament, to which they had hitherto conſidered themſelves as ſubject without any limitation or exception.

The practices of the Americans on this occaſion were agreeable to their new theory. They

The repeal of the ſtamp-act, in 1766.

univerſally reſiſted by force the execution of the ſtamp-act: and ſoon after, when the news of this violent oppoſition to it arrived in England, the Britiſh parliament, under the adminiſtration of the Marquis of Rockingham, condeſcended to repeal it. This repeal was, however, obtained with difficulty, having been oppoſed in both houſes of parliament by very great minorities. They ſaid it was a ſurrender of the authority of parliament over America thus to give way to their forcible oppoſition to it;---that the duty impoſed by the act was neither laid without a juſt occaſion, nor oppreſſive in its quantity; ſince it was reaſonable that the Americans ſhould contribute ſomething towards the expence of the new military eſtabliſhment made for their defence, and the ſum propoſed to be raiſed by it was only £.100,000 for all America;---and that, as to the right of the parliament to impoſe it, which the Americans denied, they could not entertain the leaſt ſhadow of doubt about it, and could not therefore conſent to repeal the act while the Americans objected to it upon ſuch a ground, even if they had thought it in other reſpects expedient to do ſo. Theſe reaſons had weight with a great part

part of the nation out of parliament, as well as with the numerous minorities in the two houſes. The reaſons on the other ſide, in favour of the repeal, were as follows. In the firſt place there were ſome few members of both houſes of parliament who adopted the new American principle, "that the Britiſh parliament had no right to lay internal taxes on the Americans, becauſe it had no repreſentatives in it choſen by the Americans to concur in the granting them." The members who adopted this opinion were indeed very few, being only ſix perſons in the Houſe of Lords, and about the ſame number in the Houſe of Commons. But amongſt this ſmall number of partiſans of this doctrine there were ſome perſons of the greateſt weight, from their characters and abilities, in the whole nation; particularly the famous Mr. Pitt, (ſince made Earl of Chatham,) who had been miniſter of ſtate in England during the late war, and had gained ſo much glory and popularity by the ſpirited and able manner in which he had conducted the operations of it, and the frequent ſucceſſes that had attended them; the Lord Camden, at that time lord chief juſtice of the court of Common-Pleas in England, and who had before been the king's attorney-

attorney-general during all Mr. Pitt's miniſtry, and who had diſtinguiſhed himſelf, while he was in both thoſe offices, by his attachment to publick liberty, as well as by his uncommon eloquence and abilities, and his knowledge of the laws and conſtitution of the Engliſh government; and Mr. Serjeant Hewet, a very learned lawyer, of known integrity, and who was at that time one of his Majeſty's ſerjeants, and a member of the Houſe of Commons. Theſe three reſpectable perſons plainly declared themſelves to be of the ſame opinion as the Americans, "that the Britiſh parliament had no right to lay taxes on the Americans by reaſon of their not having repreſentatives in it choſen by themſelves to conſent to the impoſition of them, or rather, according to the language of parliament, to concur in the granting them." This opinion aſtoniſhed the people of England at firſt, and made a ſtrong impreſſion on their minds, from the characters of the perſons who advanced it. But it did not, however, prevail ſo far with them, at that time, as to make many of them become converts to it, from the former univerſal and deeply-rooted opinion, "that the authority of the King, Lords, and Commons of Great-

Great-Britain, was unlimited and ſupreme over all the dominions of the crown;" though ſince that time I have obſerved that ſeveral perſons, and, amongſt them, ſome of conſiderable eminence, have acceded to it. And even at that time, though this reſpectable patronage of the new American doctrine did not induce people abſolutely to adopt it, yet it made many perſons (who were in general well inclined to the authority of parliament,) leſs tenacious than they would otherwiſe have been, of the other opinion of the unlimited ſupremacy of parliament, and leſs diſpoſed to reſent the oppoſition made by the Americans to the execution of the ſtamp-act, and to take vigorous meaſures to enforce an obedience to it. Theſe latter perſons, (who were, as I have heard, very numerous,) were diſpoſed to purſue a middle line of conduct. They thought it neceſſary to aſſert in the ſtrongeſt terms the right of parliament both to impoſe this tax on the Americans, and to exerciſe every other act of legiſlative authority over them in the ſame manner as over the inhabitants of Great-Britain itſelf; leſt, if they did not, the Americans ſhould apply their new principle to the excluſion of the authority of parliament

parliament over them in every other ſubject as well as that of internal taxation. But at the ſame time they were willing to forbear the exerciſe of this authority for the purpoſe of impoſing internal taxes on the Americans; and, as a proof of their willingneſs to do ſo, they conſented to the repeal of the ſtamp-act. Theſe ſeem to have been the ſentiments of the Marquis of Rockingham and the numerous party of Whigs, (or antient friends to publick liberty and the ſucceſſion of the Proteſtant royal family now on the throne,) of which he was at the head. It was further ſaid in favour of the repeal of this act, that it was uncommercial, inaſmuch as, by taking away the money of the Americans in the form of taxes, it would render them leſs able to trade with the mother-country, which was the moſt beneficial, as well as the moſt conſtitutional, way by which the money of America could be brought into Great-Britain. And it was alſo ſaid, that the Americans could not obey the ſtamp-act, if they would; becauſe the act required the ſtamp-duty to be paid in ſilver and gold coin, and the Americans had not coin enough to pay it. I am inclined to think that neither of theſe reaſons was true: but, however,

however, they made an impreſſion on many people at the time, and contributed to the repeal of the act. And to theſe cauſes we muſt add the earneſt endeavours of the merchants of England who traded to America, and, I may ſay, the clamours of the manufacturers of England who ſupplied the American market with goods, to get the act repealed, in order to their being relieved from the diſtreſs they had been ſuddenly thrown into by the orders which the merchants of America had ſent over to their correſpondents in England to forbear ſending them over any more goods from England. Theſe efforts of the merchants and manufacturers of England had a great effect at that time, and contributed much to the repeal of this famous act; and thereby clearly proved that the Americans have great numbers of people in Great-Britain ſo connected with them by a community of intereſts as, from a regard to their own welfare, to be ready to exert themſelves in their defence, and prevent any oppreſſive meaſures from being taken by the parliament againſt them, as well as thoſe inhabitants of Great-Britain itſelf who have no votes in the election of members of parliament. And,

perhaps, to theſe motives for repealing the ſtamp-act we ought to add the conſciouſneſs of an unwillingneſs in the principal perſons of all parties in Great-Britain to permit the Americans to ſend members to the Britiſh Houſe of Commons, and the apprehenſion that an enforcement of the ſtamp-act (if it could be enforced,) would produce a requeſt from the Americans to be permitted to ſend ſuch members, which, in ſuch caſe, could not, with any appearance of equity, have been refuſed them. And laſtly, the difficulty and expence that ſeemed likely to attend an endeavour to enforce the act, (ſeeing that almoſt all the colonies concurred in reſiſting it,) muſt, doubtleſs, have had conſiderable weight with the gentlemen then in adminiſtration to induce them to the meaſure of repealing it. Accordingly the act was at laſt repealed, but with the ſtrongeſt declarations on the part of the miniſters of ſtate, that the reaſons for repealing it were reaſons of expedience only, and not any concurrence with the new American doctrine that the parliament had no right to paſs it; and, to ſtrengthen theſe declarations, a ſhort act of parliament was paſſed at the ſame time, which aſſerted in the ſupream legiſlative authority of the Britiſh parliament over the American colonies.

The declaratory act in 1766, in favour of

the plaineſt and ſtrongeſt terms the unlimited extent of the legiſlative authority of the Britiſh parliament over all the king's dominions in America.

By this declaratory act the party that paſſed it ſuppoſed they had ſufficiently preſerved the dignity of the parliament of Great-Britain, and diſcouraged the new American doctrine of a want of authority in it with reſpect to America on the ſubject of internal taxation. But the other party in England, who had oppoſed the repeal of the ſtamp-act, and who were almoſt as numerous as thoſe who paſſed it, conſidered it in another light. They ſaid, that the repealing the ſtamp-act, while the Americans objected to it upon the ground of a want of authority in the Britiſh parliament to paſs it, and were actually reſiſting the execution of it by force upon that account, was, ſubſtantially, yielding the point to them, and allowing the validity of their objection, and equivalent to a promiſe never more to exerciſe the legiſlative authority complained of; and that paſſing the act which declared the parliament to have that authority, was only an idle proteſtation *in words*,

that would have no weight in America in ſupport of that authority when accompanied by an act that ſo directly contradicted it *in fact and ſubſtance* as the repeal of the ſtamp-act; and that it was, according to a Latin expreſſion at that time frequently cited, *verbis ponere, re tollere* the authority of parliament over America. And it is certain the Americans conſidered it in this light, and called the declaratory ſtatute an innocent compliment paid by the Britiſh parliament to their own dignity, a *brutum fulmen*, which could do them no harm, as long as the parliament was ſo complaiſant as not to act upon it, (as they had ſhewn themſelves juſt before by the repeal of the ſtamp-act,) and which, they ſaid, they would counter-act by inſtruments of exactly the ſame importance, namely, by reſolutions of their aſſemblies that the parliament had no ſuch right. This was the language of the Americans at that time concerning the declaratory ſtatute, though of late years, in their further diſputes with Great-Britain, they have ſpoken of it in a more ſerious ſtyle, and complained of it as containing the very abſtract and quinteſſence of injuſtice and tyranny towards them. The repeal of the

ſtamp-

ſtamp-act had, however, an immediate good effect in America, by reſtoring the peace and tranquillity of all the colonies.

FRENCHMAN.

This repeal of the ſtamp-act was certainly a great condeſcenſion in Great-Britain, and ought, in my opinion, to have removed all ground of uneaſineſs between Great-Britain and her colonies. For I muſt ſo far agree with the Americans in their interpretation of the conduct of Great-Britain in repealing that act, and at the ſame time declaring by another act the ſupreme authority of the Britiſh parliament over America, as to conſider the repeal as a kind of promiſe on the part of Great-Britain not to impoſe any more internal taxes on the Americans until they were permitted to ſend repreſentatives to parliament, notwithſtanding the ſtrong and general terms of the declaratory ſtatute, which I conceive to have been intended rather as a guard againſt a further extenſion of the new doctrine of the Americans to other exertions of legiſlative authority (which ſeemed much to be apprehended,) than as an intimation of any deſign of impoſing any other internal taxes

on

on them. And if Great-Britain had really laid aſide all thoughts of impoſing internal taxes on the Americans, I think they had reaſon to be ſatisfied, and ought not to have engaged in new diſputes with the mother-country. Am I right in my conception of the views of Great-Britain in conſenting to the repeal of the ſtamp-act?

ENGLISHMAN.

Intirely ſo. The party who procured the repeal of the ſtamp-act have often declared their intentions to have been preciſely what you have mentioned, namely, to impoſe no more internal taxes on the Americans, but to maintain in all its force the authority of the Britiſh parliament over them with reſpect to all other ſubjects, and more eſpecially with reſpect to the regulation of their trade, which was the matter of moſt importance to Great-Britain. It was with a view to preſerve this authority (which, they conceived, the new American doctrine, of a want of power in the parliament ariſing from a want of American repreſentatives, might be applied to overthrow,) that they paſſed the declaratory act.

FRENCH-

FRENCHMAN.

After ſuch a conceſſion on the part of Great-Britain as a reſignation of the exerciſe of her authority to lay internal taxes on America, one would have thought that no new diſputes could have ariſen between the two countries, unleſs either Great-Britain had again attempted to impoſe internal taxes on the Americans, or the Americans had refuſed to obey the authority of Great-Britain with reſpect to ſome other ſubject, as, for example, with reſpect to the regulation of their trade. Pray, did either of theſe events take place?

ENGLISHMAN.

Not exactly. But an event of a middle nature betwixt the two did take place on the part of Great-Britain; which gave riſe to new diſturbances in America. The mild and virtuous miniſters of ſtate who had conducted the repeal of the ſtamp-act, were removed from their offices about four months after, that is, in the month of July, 1766; and Mr. Dowdeſwell, who was one of them, was ſucceeded in his office

Of the new miniſtry appointed in July, 1766.

office of chancellor of the Exchequer by Mr. Charles Townſhend. This gentleman, (whoſe duty it was, from his ſaid office, to conduct the affairs of the national revenue, and to propoſe to the Houſe of Commons ſuch new taxes as were thought neceſſary for the publick ſervice,) ſeemed reſolved to make it one part of his character as a Britiſh miniſter, to be the reſtorer of the authority of the parliament of Great-Britain over the American ſubjects of the crown, which he conſidered as having been greatly lowered and impaired by the late repeal of the ſtamp-act. In this diſpoſition he publickly declared that he did not expect or deſire to have a ſtatue erected to him in America, (alluding to a ſtatue which the Americans had lately ſet up in honour of Mr. Pitt, as a mark of their gratitude for his ſervices to them in ſupporting the repeal of the ſtamp-act;) but ſhould be contented with the merit of having maintained the rights and juſt authority of his own native country over all its dependent territories. He therefore reſolved to go beyond the preceding miniſtry in aſſerting this authority, by exerting it for the purpoſe of impoſing taxes on the Americans, inſtead of ſimply declaring that the parliament was right-

fully

fully poſſeſſed of it. Yet he did not venture to propoſe the revival of the ſtamp-duty, which had been ſo lately taken off, (though it was confeſſed on all hands, even by the Americans themſelves, that that duty was the moſt judicious and reaſonable internal tax that could be impoſed upon them,) leſt ſo ſudden a change of conduct in the parliament ſhould expoſe them to the charge of inconſtancy: nor did he even venture to propoſe any other internal tax upon them; but recommended only the impoſing ſome external duties on them, to be paid upon the importation of certain commodities from Great-Britain into the American ſea-ports. Theſe duties were accordingly laid in the year 1767 by the parliament upon all the paper and painters colours and tea that ſhould be carried to America. They were, all of them, very moderate in point of quantity; and that on tea, in particular, was remarkably low, being only three-pence ſterling upon every pound of tea. And, to facilitate the payment of this laſt very ſmall duty, the parliament took off a duty (paid in England) of a ſhilling upon every pound of tea exported from England, which had been impoſed by ſome former act, ſo that

New duties impoſed by the Britiſh parliament in 1767 on paper and painters colours and tea imported into America.

the tea imported into America might be purchaſed cheaper after the impoſition of the new three-penny duty than before, by nine pence in the pound. The payment of theſe duties by the Americans would, as was ſuppoſed, give life and vigour to the declaratory act paſſed in Lord Rockingham's adminiſtration, and confirm the authority of parliament over the American colonies after the diminution it had undergone by the late repeal.

They are oppoſed by the Americans.

Theſe new duties were oppoſed by the Americans as well as the ſtamp-duty, though not, I think, quite ſo generally, nor with the ſame degree of violence.

FRENCHMAN.

Upon what pretence did the Americans oppoſe theſe new duties, ſeeing they were not internal taxes, as the duty on ſtamps had been, but only duties on the importation of certain commodities from Great-Britain; which were the ſort of duties which had, according to your account, been formerly laid by the parliament of Great-Britain upon the Americans, and which the latter had always acknowledged themſelves

themſelves to be ſubject to? By what new logick did the Americans endeavour to free themſelves from their obligation to pay theſe *external* taxes?

ENGLISHMAN.

New caſes require new diſtinctions: and the Americans were for ſome time at a loſs to find one that ſuited the caſe then in queſtion; inſomuch that, upon the firſt notice they had of theſe new duties, they only complained of them (if I remember right,) as being unreaſonable, and impoſed on them without any juſt occaſion; but not as being illegal, or void, for want of a right in the Britiſh parliament to impoſe them. And it ſeems probable that, if great pains had not been taken by ſome leading men amongſt them to excite them to an oppoſition to theſe new duties, they would ſoon have univerſally acquieſced in the payment of them. But this diſpoſition was very ſoon changed in a moſt wonderful degree by the induſtry and ingenuity of Mr. John Dickenſon, a young lawyer of eminence at Philadelphia, who wrote a periodical paper called "*the Penſylvanian farmer's letters*," to enlighten the underſtand-

Account of the reaſons alledged by the Americans as the grounds of their oppoſition to the new duties.

Publication of the Penſylvanian farmer's letters

ings of his countrymen upon this ſubject, and excite them to a new oppoſition againſt Great-Britain. Theſe letters were written with great art and ability, but in a plain, familiar, and very diffuſe ſtyle, ſuited to the comprehenſion of all ranks of men, and calculated to imprint the doctrines advanced in them in the moſt forcible and laſting manner on their minds. They were publiſhed originally, I think, in the New-York news-papers, and from them copied into all the other news-papers on the continent of North-America; and came out about once a fortnight. The effect of them on the minds of the Americans was prodigious. They made them almoſt univerſally converts to the doctrines contained in them, or rather they furniſhed them with plauſible arguments to confirm themſelves in the belief of thoſe doctrines, which were already rooted in their hearts as wiſhes and ſentiments, though not as ſettled opinions. They became the political bible of North-America. The principal doctrine advanced in them is this, "That the Britiſh parliament, for want of repreſentatives from the ſeveral colonies of America, has no right to impoſe any taxes whatever on the Americans, either

The principal doctrine inculcated in thoſe letters.

either internal or external, *with a view to raiſe a revenue*; but can only lay external taxes, or port-duties, on the commodities imported into, and exported from, America, with a view to the regulation of their trade." This is the grand diſtinction which runs through theſe famous letters, by means of which the writer of them encouraged the Americans to oppoſe the new taxes impoſed by the Britiſh parliament, which had been laid with an expreſs deſign of raiſing a revenue in America, and not for the purpoſe of regulating its trade. This diſtinction was univerſally adopted by the Americans; and it became almoſt as ſettled an opinion amongſt them in the year 1768, "that the Britiſh parliament could not legally impoſe any external taxes, or port-duties, on the Americans, *with a view to raiſe a revenue*, as it had been in the year 1765 that it could not legally impoſe on them an internal tax." But they ſtill allowed (though, I think, not unanimouſly,) that the parliament might eſtabliſh external taxes among them for the purpoſe of regulating their trade. Such was the progreſs in the ſentiments and conduct of the Americans towards exempting themſelves from the authority of the Britiſh parliament.

It was generally adopted by the Americans.

FRENCH-

FRENCHMAN.

A remark on the foregoing doctrine.

This distinction between different sorts of port-duties, invented by Mr. Dickenson, was subtle and plausible, and wonderfully convenient for the purpose of exempting the Americans from the payment of any duties whatsoever, that should be imposed on them by the British parliament. For, as the duties would always produce some revenue *in fact*, the Americans might fairly enough alledge that they were *intended* to produce a revenue, and consequently were illegal and void, though, perhaps, the main design of them might be to regulate the trade of the commodities on which they were imposed. And I do not see any method by which Mr. Dickenson's distinction could be practically observed, without deceit or abuse by one or other of the parties.

ENGLISHMAN.

Your observation is very just. This new distinction had a manifest tendency to deprive the British parliament of the right of imposing any port-duties whatsoever on the Americans: which is no inconsiderable objection to the truth

of

of it; since that proposition cannot be true from which false conclusions may be inferred. But indeed you and I have above agreed that the mere legal right of imposing taxes of every kind, internal as well as external, upon the subjects of the crown of Great-Britain residing in America, belongs to the British parliament, though perhaps it may seldom be expedient to exert it. There is, however, a way of proceeding with respect to the port-duties that the British parliament might think fit to impose on the Americans, which would be, in a good measure, accommodated to Mr. Dickenson's distinction, and would serve to discriminate such duties as were imposed for the purpose of raising a revenue upon them from such as were principally intended for the regulation of their trade, though they likewise did produce some revenue. This method would be, to insert a clause in every act of parliament that was passed with only the latter view, by which it should be provided, that the revenue raised by the duties imposed by such act, whatever they might amount to, should not be disposed of by either the king alone, or the king and the British parliament conjointly, but be left to the disposal of the legislatures

A way of proceeding with respect to port-duties imposed on the Americans, which would be accommodated to the foregoing doctrine.

legiſlatures of the ſeveral provinces in which it ſhould ariſe. By this means the parliament of Great-Britain could not be under any temptation to paſs acts for raiſing a revenue on the inhabitants of America with a view to leſſen their own burthens, under colour of regulating the American trade; ſince the revenue that would ariſe by ſuch acts would not be at their diſpoſal: nor could the Americans, with any appearance of juſtice, conteſt the legality of ſuch acts upon the ground of Mr. Dickenſon's propoſition, by pretending that, though they were declared to be made only with a view to regulate the trade of America, yet the real purpoſe of them was to raiſe a revenue in America for the benefit of Great-Britain. This expedient makes a part of the famous conciliatory propoſition made by Lord North in the Britiſh Houſe of Commons on the 20th of laſt February.

It is a part of Lord North's conciliatory propoſition.

FRENCHMAN.

I am much pleaſed with this contrivance, and wiſh it may prove a means of reconciling the two parties to each other. And really, I ſhould think that, if Great-Britain would give up, or forbear to exerciſe, her right of impoſing internal

internal taxes on the Americans, (as, indeed, she seems to have done by the repeal of the stamp-act,) and should also resolve not to impose any external taxes, or port-duties, upon them, but with the restriction you have just now mentioned, until they shall have been permitted to send representatives to the British parliament, the Americans ought to be satisfied with such a temperament, and return to their old habits and affections for their mother-country. I mention the limitation of time to this concession, namely, *until the American colonies shall be permitted to send representatives to the British parliament*, not so much with a view to its ever taking place, (for that you have taught me to consider as a most improbable event, by reason of the disinclination of Great-Britain as well as America to the measure of an American representation in parliament;) as by way of salvo to the dignity of the British parliament, who, by passing such restrictive resolutions on the use of their own power, would exhibit a remarkable proof of their equity and moderation, which could not fail to do them honour.

A proposal of a method of settling the disputes between Great-Britain and the American colonies concerning the taxation of the latter, without any dishonour to the British parliament.

ENGLISHMAN.

I intirely approve the limitation you ſuggeſt, as a ſalvo for the dignity of parliament; and I heartily wiſh the parliament would adopt the whole meaſure of making the conceſſion you have mentioned, with that limitation. This could be done only by paſſing reſolutions in both houſes of parliament, to be tranſmitted to the ſeveral aſſemblies of the American colonies, to the following effect; to wit, "*That, for the future, no tax, or duty, of any kind ſhall be impoſed by authority of the parliament of Great-Britain upon his Majeſty's ſubjects reſiding in thoſe provinces of North-America in which aſſemblies of the people are eſtabliſhed, until the ſaid provinces ſhall have been permitted to ſend repreſentatives to the Britiſh parliament; excepting only ſuch taxes, or duties, upon goods exported out of, and imported into, the ſaid provinces as ſhall be thought neceſſary for the regulation of the trade of the ſaid provinces; and that when ſuch taxes, or duties, ſhall be laid by the Britiſh parliament on any of the ſaid provinces, the whole amount of the ſame ſhall be diſpoſed of by acts of the aſſemblies of the provinces in which they ſhall have*

A reſolution neceſſary to be paſſed by both houſes of parliament for that purpoſe.

been

been collected, reſpectively." Such a meaſure would be calculated to give the Americans ſatisfaction and ſecurity, by declaring a reſolution not to tax them by the authority of the Britiſh parliament, (of which they have expreſſed ſo great a dread and averſion,) and at the ſame time (as you have juſtly obſerved,) to ſave the honour and dignity of that ſupream legiſlature of all the Britiſh dominions, by not totally renouncing their right and authority to tax the American provinces, but only by reſolving to forbear the exerciſe of it till they ſhall have taken a ſtep towards the amendment of the conſtitution of their own body, which the moſt ſtrenuous advocates for their authority acknowledge to be agreeable to equity in caſe it ſhould be their intention to uſe that authority for the purpoſe of taxing America. For the late Mr. George Grenville himſelf (as we have already obſerved,) and others of the moſt zealous defenders of the rights of the Britiſh parliament, have acknowledged that ſuch an alteration of the conſtitution of the Britiſh Houſe of Commons, by admitting into it a reaſonable number of members for the American colonies (agreeably to what was done a hundred

years ago in the caſe of the biſhoprick of Durham) would be perfectly conſtitutional and equitable, and could not well be refuſed to the Americans, if they were to deſire it and to declare a willingneſs to ſubmit, in conſequence of it, to the authority of parliament in all things in the ſame manner as the inhabitants of Great-Britain. Until, therefore, an offer of this kind is made to the Americans, and rejected by them, it can be no derogation to the honour of the parliament, but rather a proof of their equity and moderation, and therefore honourable to them, to forbear to exerciſe their authority over America in this delicate and dangerous buſineſs of taxation. And, as the people of Great-Britain ſeem hardly more diſpoſed to make ſuch an offer than thoſe of America are to accept it, this forbearance of the exerciſe of the authority of parliament to impoſe taxes on the Americans may be continued for many years to come, perhaps for ever, without any loſs of honour to Great-Britain, and with great joy and ſatisfaction to the Americans.

FRENCHMAN.

I ſee plainly that a meaſure of this kind on the part of Great-Britain muſt tend greatly to the removal of the preſent diſcontents in America. And yet the propoſition of Lord North, which you ſome time ago mentioned, and which ſeems to be in ſubſtance pretty nearly the ſame with this generous meaſure, does not ſeem to make much impreſſion on the minds of the Americans, nor to be conſidered by them as a favour of much conſequence. This makes me ſuſpect that I have miſconceived lord North's propoſition: and therefore I ſhould be glad you would inform me whether it differs in any material circumſtance from the meaſure we have been juſt now commending.

ENGLISHMAN.

The two propoſitions are indeed very different from each other. For Lord North's propoſition declares that the Britiſh parliament will forbear (except in certain caſes) to impoſe taxes on the Americans *only ſo long* as the Americans ſhall raiſe amn gſt themſelves by grants of their aſſemblies, and by ways and means of their

Difference of the foregoing propoſal from L^d. North's conciliatory propoſition of the 20th of February, 1775.

their own chuſing, ſuch ſums of money as the Britiſh parliament ſhall from time to time require them to raiſe; and, upon their failing to do ſo, the Britiſh parliament is to be at full liberty to impoſe taxes of any kind, either external or internal, upon them: whereas the propoſition we have been ſpeaking of is a forbearance (except in certain caſes) from the impoſition of taxes on the Americans, (whether they raiſe any money amongſt themſelves, when required to do ſo, or not,) until they ſhall be permitted to ſend members to the Britiſh parliament, that is, according to all appearance, until the end of the world. The difference between theſe two ſorts of forbearance of the exerciſe of the power of taxation over America, is ſtriking and important.

FRENCHMAN.

It is indeed; and ſufficiently accounts for the ill reception the Americans have lately given to Lord North's propoſition, conſiſtently with our opinion that the other propoſition would have gone far towards giving them ſatisfaction. But ſurely the remaining parts of the two propoſitions are alike, which contain the reſervation

made

made by the parliament of the power of laying external taxes, or port-duties, on the Americans, for the purpoſe of regulating their trade, and the proviſoe that the amount of theſe duties ſhould be left to the diſpoſal of the legiſlatures of the ſeveral provinces in which they ſhould be levied reſpectively.

ENGLISHMAN.

You are perfectly right. This reſervation and proviſoe are the ſame in both the propoſitions. And that, I ſuppoſe, was the occaſion of your miſtake in imagining the propoſitions to co-incide in their other parts. But, in truth, Lord North's propoſition is ſo far from removing the apprehenſions of the Americans concerning the danger of being taxed by the Britiſh parliament, that it is retrograde in that reſpect, and puts them in a worſe condition than they have conceived themſelves to be in ever ſince the repeal of the ſtamp-act in the year 1766. For ever ſince that period they have ſuppoſed that the right, or the exerciſe of the right, of impoſing internal taxes on them had been virtually relinquiſhed by the Britiſh parliament: but that propoſition ſeems to bring this right

again

again in view, and to threaten them with the exercise of it in case of their non-compliance with the requisitions that shall be made to them by parliament to raise specific sums amongst themselves. It is no wonder, therefore, that this proposition of Lord North has not been well received in America.

FRENCHMAN.

I am now perfectly satisfied about the difference of the two propositions and the expedience of Great-Britain's making an offer to the Americans of the former proposition, if she means to reconcile them to her authority. But, pray, in what manner, and with what degree of unanimity, did the Americans oppose the execution of the act of parliament passed in the year 1767 for imposing the new duties on tea and certain other articles imported into America? For, I think, you said they opposed these duties with less violence than the stamp-act.

ENGLISHMAN.

When Mr. Dickenson, by his famous Farmer's letters, had persuaded the Americans that these new duties, though they were not internal taxes,

taxes, yet were *of the nature of internal taxes*, becauſe they were laid in order to raiſe a revenue, and that they were therefore illegally impoſed by the Britiſh parliament, they entered into general combinations, throughout all the Engliſh provinces, not to import the goods on which theſe duties were laid; hoping, by the diſtreſs this would bring on her trade, to compel Great-Britain to repeal the act that impoſed them. Theſe combinations were called *non-importation agreements*. They were entered into by a conſiderable majority of the merchants in moſt of the trading towns in America; but not by all of them. But thoſe who were diſpoſed to import theſe articles of commerce, were deterred from doing ſo by the fear of being delivered over to the mob to be ill-treated in their perſons and property as enemies of publick liberty. For, when any body preſumed to oppoſe the proceedings of the committees that were appointed to carry the non-importation agreements into execution, or broke the reſolutions which thoſe committees had publiſhed, it was uſual for them to give notice in the publick news-papers that he had done ſo, and ought therefore to be conſidered and treated as a

The Americans oppoſe the new duties by entering into non-importation agreements.

Ill treatment of thoſe who broke theſe agreements.

publick enemy, or, (as they ſometimes expreſſed it,) a perſon inimical to the liberties of America. This was like the prieſts, in your religion, pronouncing a man a heretick, and delivering him over to the ſecular arm to be burnt alive, or otherwiſe tormented. The mob were in theſe caſes the ſecular miniſters of juſtice who undertook the puniſhment of theſe offences: and the offenders were ſure to be ſeverely puniſhed by them, ſometimes in their perſons, by having their naked bodies ſmeared over with tar, and then covered with feathers ſtuck upon the tar, and ſo led about ignominiouſly through the publick ſtreets; and ſometimes in their property, by having their goods deſtroyed, or their houſes pulled down. Many inſtances of this kind happened in the courſe of the years 1768 and 1769.

FRENCHMAN.

But were not the perſons concerned in theſe acts of violence proſecuted in the provincial courts of juſtice, and brought to condign puniſhment for ſuch enormities?

ENGLISHMAN.

That was impoſſible, for more than one reaſon. For, in the firſt place, the executive branches of the governments of the ſeveral provinces, that is, the governours, judges, ſheriffs, conſtables, and other civil officers concerned in the adminiſtration of juſtice in them, were too weak to carry any ſentence of a court of juſtice againſt any of theſe rioters into execution, if ſuch a ſentence had been paſſed: and, if they had attempted to do ſo, it is almoſt certain that a mob would have riſen to prevent it, and, perhaps, to ill-treat, as enemies of their country, the very magiſtrates and officers of juſtice who ſhould have thus attempted to execute the law. And, in the ſecond place, it was almoſt impoſſible to procure any ſentence of a court of juſtice to be paſſed againſt any of theſe rioters. For you well know that, by the Engliſh law, no ſuch ſentence could be paſſed againſt them till they had been regularly indicted, tried and convicted of the offence by a jury of their peers; and, in the then diſpoſition of the people to favour theſe rioters, whom they looked upon as the active defenders of

Impoſſibility of puniſhing the rioters who mal-treated the perſons who were obnoxious to the popular party in America.

publick liberty, it was difficult to find juries who would either indict them for theſe offences, or convict them of them, when indicted. So that, from theſe cauſes, the perpetrators of theſe acts of violence were almoſt ſure of eſcaping with impunity.

FRENCHMAN.

If the mobs were thus permitted to wreak their vengeance on the friends of government and Great-Britain without controul, I do not underſtand in what ſenſe you can ſay (as, I think, you did ſome time ago,) that the Americans oppoſed theſe laſt duties with leſs violence than they had done the ſtamp-act. What greater degrees of violence than thoſe juſt now mentioned was it poſſible for the Americans to exert?

ENGLISHMAN.

Difference between the acts of violence committed in this ſecond oppoſition to Great-Britain and thoſe committed in oppoſition to the ſtamp-act.

In the caſe of theſe laſt duties they only uſed violence againſt their own people, that is, againſt thoſe who imported the dutied goods from Great-Britain in oppoſition to their combinations; but did not, as I recollect, proceed ſo far as to uſe violence againſt the officers of government: whereas,

whereas, in the caſe of the ſtamp-act, the mobs laid hands on the perſons appointed by government to diſtribute the ſtamped paper in the ſeveral provinces, and compelled them to reſign their offices, and to ſwear that they would not execute them; and they alſo ſeized on the ſtamped papers themſelves in ſome places, and deſtroyed them. Theſe proceedings had more the appearance of direct rebellion againſt the Crown than the proceedings in the caſe of the other duties; or rather, indeed, they were downright acts of rebellion; whereas the other proceedings could only be called riotous and tumultuous. However, theſe different degrees of violence are hardly worth inquiring into. In both caſes they were very great and very alarming to Great-Britain.

FRENCHMAN.

What effect had theſe violent proceedings of the Americans on the conduct of the Britiſh parliament? Did they produce a repeal of the act by which thoſe duties had been impoſed, as their former reſiſtance had produced a repeal of the ſtamp-act? or did the parliament permit the act to continue in force, and endeavour to cauſe the duties to be levied?

ENG-

Continuance of the new duties and the non-importation agreements in oppoſition to them.

The act continued in force from 1767 to 1770: and during all that time the non-importation agreements of the Americans were kept up likewiſe; and, by means of the violent proceedings above-mentioned of the American mobs againſt thoſe who preſumed to break them, they were generally and outwardly obſerved; I ſay, generally and outwardly, becauſe it is certain that ſeveral traders in America did contrive, by artful pretences and under various diſguiſes, to import ſome of the dutied commodities, eluding the diligence of their own popular committees for carrying thoſe non-importation agreements into execution, with the ſame ſubtlety and vigilance as had formerly been employed to elude the reſtraints on trade impoſed by the Britiſh parliament. But in general the non-importation agreements were obſerved, to the great and mutual inconvenience of both Great-Britain and America, who were thereby kept in a continual ſtate of uneaſineſs and ill-humour with each other during the whole three years: and the duties, which gave occaſion to this uneaſineſs, produced little

or

or no revenue. At laſt Great-Britain ſeemed to grow weary of the conteſt, and the parliament took off all the duties except that upon tea, which was only three-pence upon every pound of tea imported into America, and which it was therefore hoped the Americans would pay rather than be deprived of the uſe of a commodity that was in ſuch general requeſt among them. The other duties were taken off upon the ground of their being injudicious, and prejudicial to commerce, and not of their having been laid without a legal and adequate authority. And the duty on tea was permitted to continue, on purpoſe to exclude any inference of that nature from the ſuppreſſion of the other duties. This repealing act was paſſed about February, or March, 1770.

The ſaid dnties were all takenoff by act of parliament in 1770, except the duty upon tea.

FRENCHMAN.

What effect did this new inſtance of condeſcenſion in Great-Britain produce in America?

ENGLISHMAN.

A very happy one. The non-importation agreements were immediately diſſolved with reſpect to thoſe commodities upon which the duties

Good effect of the ſuppreſſion of the ſaid duties.

duties had been taken off: and, though they were ſtill kept up with reſpect to tea, by way of proteſtation againſt the right of Great-Britain to continue the duty on that article, yet they were executed more remiſsly than before; inſomuch that ſeveral traders in America imported tea thither after this time, and paid the duty upon it, without being moleſted for ſo doing by the popular committees, or the mobs who acted under their direction, in the manner they had been before. So that the contention with Great-Britain upon this ſubject ſeemed to be almoſt at an end, and the Americans were beginning, by gentle degrees, practically to ſubmit to the tea-duty, and thereby, in ſome degree, recognize the authority of the Britiſh parliament to impoſe it.

FRENCHMAN.

Nothing could be more advantageous to Great-Britain than ſuch a ſtate of things. It ſeemed naturally to tend to the eſtabliſhment of that line of conduct which the Americans had marked out at the time of their oppoſition to the ſtamp-act, and which the parliament of Great-

Great-Britain, (by repealing that act and not afterwards reviving it, or paſſing any other act to lay an internal tax upon them) had ſeemed to have reſolved to adopt; namely, that the Britiſh parliament ſhould forbear to impoſe internal taxes on the Americans, but ſhould continue to exerciſe their right of impoſing port-duties, without regard to Mr. Dickenſon's new-invented diſtinction concerning it, which might eaſily be abuſed by the Americans to the purpoſe of totally evading them. This line of conduct was, perhaps, the moſt equitable and the wiſeſt ſyſtem that could be purſued, while both parties continued averſe to the more obvious and natural remedy to their diſſenſions, an American repreſentation in parliament. It is ſtrange therefore that it ſhould not have been adhered to. Pray, what were the events that occaſioned a departure from it, and brought on a renewal of the former diſſenſions between the two countries, within theſe laſt two or three years, in a higher and more violent degree than ever, and with all the ſymptoms of an approaching civil war?

Of the cauſes of the renewal of the diſturbances in North-America.

ENGLISHMAN.

These misfortunes are undoubtedly owing to the imprudent conduct of Great-Britain; as I believe you will soon be convinced when you hear the particulars of it.

Bad state of the affairs of the East-India company in the year 1772.

You must know then that the affairs of the English East-India Company were, by various causes, reduced to a very bad condition about the year 1772; insomuch that they could no longer afford to pay to the national revenue of Great-Britain the annual sum of £.400,000 sterling, which had been required of them by the parliament for three or four years before that period, as a consideration for the enjoyment of the large revenues of the rich territories of Bengal, Bahar, and Orixa, which they had lately acquired, and which, it was thought, could not, in strictness of law, be acquired by a mere commercial company, but only by the nation at large, or by the king; or, if it could be legally acquired by the company, it was thought to be a fair and just object of taxation towards the support of the national expence. Upon some such grounds this annual sum of

£.400,000

£.400,000 ſterling had been required of the Eaſt-India Company, and by them paid to the publick during a few years; which, conſidering that the territorial revenue they had lately acquired, and on account of which this ſum was demanded of them, was more than three millions of pounds ſterling per annum, ſeemed to be but a moderate tax upon them. However, moderate as it was, their affairs were at ſo low an ebb in the year 1772, that they could no longer afford to pay it; and they were alſo obliged to reduce the dividend paid annually to themſelves in proportion to their ſeveral ſhares of their ſtock, from twelve pounds for every hundred pounds of ſtock, (at which it had ſtood for a few years,) to ſix pounds. At the ſame time they had in their ware-houſes in London an unuſual quantity of tea, which they could not tell how to diſpoſe of; which was owing in part to the non-importation agreements of the Americans, which had prevented them from importing tea in any conſiderable quantities from Great-Britain ever ſince the year 1767, when the tea-duty and the other duties above-mentioned were impoſed on the Americans. It is true indeed that after the year 1770, when all

Reduction of their dividend from 12 to 6 per cent.

Unuſual quantity of tea in their ware-houſes, which they could not find a market for.

thoſe other duties were taken off, the violence of the oppoſition to Great-Britain had, in a great degree, ſubſided, and ſome American merchants had imported tea from Great-Britain without being moleſted by the mobs. But the quantities ſo imported had been but ſmall, and the greater part of the Americans had either gone without tea, or procured it by means of a clandeſtine and unlawful trade with Holland. As, therefore, the Americans had imported but little tea from Great-Britain for ſeveral years paſt, it was imagined that they muſt be in great want of a ſupply of that commodity, of which it was known that they were, in general, very fond. The directors of the Eaſt-India Company therefore conceived that America would prove a moſt convenient market for their ſuperfluous ſtock of tea, which lay dead upon their hands: and, from the appearance of an extinction of the late violent ſentiments of the Americans in oppoſition to Great-Britain, they imagined that the continuance of the ſmall parliamentary duty on tea, after the abolition of the other duties, would be no hindrance to the ſale of their tea amongſt them. They therefore petitioned for an act of parliament to impower them to ſend cargoes of their

Their opinion that it might be diſpoſed of to advantage in America.

their tea to America to be ſold on the Company's account, inſtead of ſelling it here in England, as by their charter, or by former acts of parliament, they were bound to do. This plan of relief to the Eaſt-India Company was approved by the miniſtry and the parliament; and the act was paſſed accordingly, the miniſtry and parliament probably thinking, (as well as the directors of the Eaſt-India Company,) that the ſpirit of oppoſition to parliamentary authority had ſo far ſubſided in America, that no difficulties would attend the importation of this tea amongſt them, nor prevent its ſpeedy ſale. But in this they were fatally miſtaken. Though the Americans had oppoſed the importation of tea but faintly ſince the year 1770, when the other new duties had been taken off, they were rouſed by this attempt of Great-Britain to renew their former vigorous efforts to prevent the ſucceſs of it. And they even went greater lengths than they had done before in their oppoſition to it. For they did not content themſelves with combining together not to import the tea, or not to purchaſe, or uſe, it when imported, and with ill-treating thoſe who either refuſed to enter into ſuch combinations, or broke

Act of parliament permitting them to ſend their tea directly to America.

Violent oppoſition of the Americans to the importation of theſe cargoes of tea.

broke them after they had entered into them, but they made uſe of force, and threats of force, in ſome of the principal ſea-port towns of America to prevent its being landed; which was a kind of oppoſition which, (like that which had been made to the ſtamp-act,) came very near to rebellion, or high-treaſon. This was done in the towns of Philadelphia and New-York. The committees appointed by the oppoſers of the tea-duty ſent veſſels out to ſea to meet the ſhips of the Eaſt-India Company that were coming thither loaded with tea, and to inform the maſters of them that, if they proceeded on their voyage and attempted to land their cargoes, they would be forcibly oppoſed by the body of the people in thoſe towns in their attempts to do ſo, which might be attended with miſchievous conſequences to their own perſons, as well as to the cargoes that were entruſted to their care. This denunciation had the deſired effect with reſpect to thoſe two veſſels: for, in conſequence of it, the maſters of them deſiſted from the proſecution of their voyages, ſhifted their courſe, and returned with their cargoes to London. In Charles-Town in South Carolina the method of proceeding was ſomewhat different;

Conduct of the people at New-York and Philadelphia.

Conduct of the people of Charles-Town in South Carolina.

rent: the tea was indeed landed; but the oppoſers of the tea-duty took it away by force from the perſons to whoſe care it was conſigned, and locked it up in a ſtore-houſe, and prevented it from being ſold: which differed but little in point of violence from the proceedings at New-York and Philadelphia. And at Boſton the people that oppoſed the tea-duty went further ſtill than at either of the three other places: for a party of them, conſiſting of about forty or fifty men, diſguiſed in Indian dreſſes, and with black crapes over their faces, went on board the veſſel which had brought the tea, (and which was then lying in Boſton harbour,) broke open the cheſts in which it was packed, and threw it all into the ſea. This was done in conſequence of a motion for that purpoſe that had been made at a very numerous meeting of the people of the town of Boſton, and received by them with general applauſe; and therefore it may juſtly be conſidered as the act of the body of the people of that town, I mean, as the act of that great majority of the people there who were enemies to the tea-duty. On the other hand, it muſt be obſerved that this act of violence was not committed till the people

Conduct of the people of Boſton in New-England.

people of Boſton had found that all their reſolutions againſt the landing of the tea were not ſufficient to induce the maſter of the veſſel that brought it to return back to London with it, (as the maſters of the veſſels that had carried the like cargoes towards New York and Philadelphia had done,) and that conſequently there was an immediate danger of its being landed. Theſe violent proceedings of the North-Americans with reſpect to the tea-ſhips happened in the months of October, November and December, of the year 1773; the deſtruction of the tea at Boſton, which was the laſt of them, was in December.

FRENCHMAN.

Theſe were indeed very outrageous proceedings, and ſuch as one would hardly have expected to ſee happen amongſt the Americans in conſequence of this attempt to import theſe cargoes of tea by the Eaſt-India Company, after the connivance they had ſhewn to the private merchants who had imported tea thither for the preceding two or three years. I ſhould have rather thought that they would have extended that connivance to the like importation by

by the East-India Company, or, at least, would have abstained from such publick and direct acts of violence as those you have mentioned, which bear so near a resemblance to open rebellion. And I imagine the ministry of Great-Britain thought the same; or they would never have procured that act of parliament which permitted the East-India Company to make this unhappy experiment. I should therefore be glad to be informed whether there were any particular circumstances that contributed to light up anew this flame in America, over and above the general aversion the Americans had conceived against being taxed by the British parliament.

ENGLISHMAN.

I have heard that there were some such circumstances; and particularly the following one. Besides the tea which had been imported into America in a regular manner from England by a few private merchants in the years 1771 and 1772, without any molestation from the popular committees and their mobs for so doing, there were much larger quantities of the same commodity imported thither clandestinely and unlawfully from Holland; and this was done, as

An additional circumstance that contributed to increase the violence of the opposition of the Americans to the importation of the East-India Company's tea.

as you may naturally ſuppoſe, by ſome of thoſe merchants who were warmeſt in their oppoſition to the authority of the Britiſh parliament. Theſe merchants had great quantities of this ſmuggled tea in their warehouſes in America, which they had not yet had time to diſpoſe of, when the parliament paſſed the act which permitted the Eaſt-India Company to ſend their tea thither. The news of this permiſſion, therefore, greatly alarmed them on the ſcore of their private intereſt, as well as on account of its dangerous conſequences with reſpect to the liberties of America. For they apprehended they ſhould be underſold by the Eaſt-India Company, who were known to have immenſe quantities of tea in England beyond what was neceſſary to ſupply the uſual demand there, and who therefore were likely to offer it to the Americans at a very low price; the conſequence of which muſt have been that the merchants in America who had already imported large ſtocks of tea from Holland, muſt have had it left upon their hands. With this proſpect of great private loſs from the intended importation of tea by the Eaſt-India Company, it was reaſonable to ſuppoſe that theſe merchants would exert themſelves to

the utmoſt to prevent this meaſure from taking place; which they could no other way hope to effect but by reviving, in the ſtrongeſt manner poſſible, the popular clamour againſt the importation of a commodity upon which a parliamentary duty was to be paid. This was the private motive that conſpired with the publick ſentiments and claims of the Americans to renew, in ſo fierce a manner as we have ſeen, the oppoſition to the payment of the duty on tea, and conſequently to the importation of this tea into their ports. And this might eaſily have been ſeen and known by the Britiſh miniſtry, and ought to have deterred them from trying this raſh experiment. But, indeed, without this private motive, it was natural to imagine that a meaſure of this kind would revive the ſpirit of oppoſition in the Americans. For the ſending ſuch large cargoes of tea to America by virtue of an act of parliament paſſed expreſsly for the purpoſe, had the air of a triumphant execution of the act that had impoſed the duty on that commodity:——it was endeavouring to make their payment of the duty on it as notorious as poſſible, and thereby to preclude them from ever ſaying, at any future time, that,

But the principal ground of this oppoſition was, probably, the publick and avowed one, to wit, the danger apprehended to the liberties of America from the importation and ſale of this tea.

though a few ſelfiſh merchants might have imported ſmall quantities of tea from Great-Britain and paid the duty impoſed on it by parliament, and a few luxurious individuals might have purchaſed it of them, and uſed it, yet that the great body of the Americans had always abſtained from purchaſing and uſing it on account of the duty it was loaded with, as well as made proteſtations againſt the right of parliament to impoſe the ſaid duty on it:—it was, in ſhort, (to uſe a vulgar expreſſion,) cramming the duty down their throats, inſtead of letting it gain upon them by gentle and inſenſible degrees, as (by the connivance, or relaxation of the oppoſition to it, which had prevailed for a year or two before,) it had already begun to do. This permiſſion, therefore, to the Eaſt-India Company to ſend their tea to America may juſtly be conſidered as an imprudent meaſure on the part of Great-Britain.

FRENCHMAN.

I confeſs, it does appear to have been ſo. But ſtill, I think, it is hardly ſufficient to account for the preſent very violent animoſity of the Americans againſt Great-Britain. There muſt,

as

as I imagine, been ſome other meaſures taken by Great-Britain againſt America, of a ſtill more offenſive and alarming nature, to give riſe to ſo general a ſpirit of reſentment and hoſtility as ſeems now to prevail amongſt the Americans. And ſuch meaſures I can eaſily conceive to have been taken by Great-Britain in the firſt tranſports of her indignation at hearing of that provoking act of violence, the deſtruction of the tea at Boſton. Pray, what were the meaſures taken by Great-Britain upon that occaſion?

ENGLISHMAN.

Of the over-great reſentment ſhewn by the Britiſh parliament upon-hearing of the deſtruction of the tea at Boſton.

Your conjectures are very well founded. The preſent dangerous troubles in America were not occaſioned intirely, nor even principally, by that attempt to import the tea of the Eaſt-India Company, but rather by the angry acts of parliament that were paſſed in the ſpring of the year 1774 in conſequence of the violent endeavours of the Americans to defeat the ſucceſs of that attempt, and more eſpecially, in conſequence of their deſtruction of the tea at Boſton. On this occaſion the indignation of Great-Britain knew no bounds: but ſhe adopted meaſures of ſeverity and reſentment that had no

kind

kind of relation to the offences committed by the Americans, and which had a ſtrong and an immediate tendency to unite all the American provinces more cloſely than ever in oppoſition to her. The meaſures that I allude to were the Boſton-charter act and the Quebeck act, which had evidently not the leaſt connexion with the deſtruction of the tea at Boſton, or the forcible oppoſition to its importation at New York and Philadelphia. For, as to the Boſton-port act, by which the town of Boſton was prohibited to be made uſe of as a ſea-port town, or all its trade was ſtopped, till the people of Boſton had made a ſufficient compenſation to the Eaſt-India Company for the deſtruction of their tea, I acknowledge that that act had a near relation to the offence that gave occaſion to it, and perhaps might be a proper method of puniſhing the people of Boſton for it, or rather of compelling them to do a mere act of private juſtice with reſpect to the company which they had injured: though there are ſome parts even of that act which cannot be wholly juſtified upon this ground. But theſe I ſhall not now examine, becauſe this act does not appear to me to have given general offence to the Americans, and

The paſſing of the Boſton-charter act and the Quebeck act in 1774.

to

to have become a cauſe of the preſent alarming commotions: but, on the contrary, it ſeems probable to me that, if Great-Britain had ſtopt at this one act, the other provinces of America would have left the people of Boſton to ſhift for themſelves, until they had made that reparation to the Eaſt-India Company, for the damage done to their property, which juſtice ſeemed to require of them. But what had the deſtruction of the tea to do with the charter of the Maſſachuſet's Bay? How did the privileges contained in that charter contribute to that act of violence? And why, therefore, ſhould they be taken away?---That outrage was committed by a party of forty or fifty men, diſguiſed in Indian dreſſes and with crapes over their faces, in conſequence of a motion made and applauded in a very numerous meeting of the people of Boſton, called a town-meeting. This kind of meeting is not authorized by their charter, nor even mentioned in it, but is warranted by ſome of their provincial acts paſſed by the governours, councils, and aſſemblies of former times. It ought not therefore to be imputed to the charter: nor ought the privileges contained in the charter to be taken away on account of the raſh

Unreaſonableneſs of paſſing the Boſton-charter act.

reſolutions

reſolutions taken in it. Indeed, if theſe town-meetings had not been authorized by the laws of the province, but expreſsly forbidden by them, and by the charter likewiſe, it is probable that on that unhappy occaſion of the arrival of the tea in the harbour of Boſton, and the refuſal of the maſter of the veſſel to return back with it to London, ſome ſuch meeting of the people of Boſton would have been held, either under the name of a town-meeting or ſome other name, (which is a matter of no ſort of conſequence,) to concert meaſures to prevent its being landed. Accordingly we ſee that in the provinces of New York and South Carolina, (which have no charters, but are governed intirely by the king's commiſſions to his governours,) the people joined in meaſures of violence to prevent the ſale of this tea; in the former place, ſending a threatening meſſage to the maſter of the veſſel that was bringing it, by which they forbad him to proceed on his voyage and enter the harbour of New-York, and commanded him to return with the tea to England; and, in the latter place, ſeizing upon the tea after it was landed, and locking it up in a ſtore-houſe, in order to prevent its being ſold. And

in Penſylvania, (which is indeed governed by a charter, but of a very different kind from that of the Maſſachuſet's Bay, and in which the parliament has not as yet thought fit to make any alterations,) the people proceeded in the ſame violent manner as at New-York. This violence therefore at Boſton had no connection with the charter of that province, and ought not to have given occaſion to any diminution of the privileges which had been thereby granted. The true and only cauſe of this act of violence of the people of Boſton, and of the other acts of violence committed in the other provinces of America, was the general opinion, that was now become rooted in the minds of the Americans, that the Britiſh parliament ought not to tax them, and their firm reſolution not to let themſelves be ſo taxed. The natural way therefore to prevent ſuch acts of violence for the future was one of theſe three; either, *to alter* this general opinion, or *to conform to it*, or, laſtly, to ſtation ſuch *a moderate military force* in the principal ſea-port towns of America, or at leaſt at Boſton, as would deter the people from venturing to commit them. To *alter* the general opinion of the Americans *by mere argument*,

The ſafer and more natural methods which might have been taken to prevent the like acts of violence in America for the future.

ment, was indeed almoſt impoſſible, after the deep impreſſion which the Farmer's Letters had made on their minds: but perhaps it might have been poſſible to ſucceed in *altering* it by offering them a competent repreſentation in parliament, or by ſome other reaſonable condeſcenſion. To conform to this opinion was both ſafe and eaſy, by paſſing ſuch a reſolution in both houſes of parliament as we have above ſpoken of, to wit, " that no internal tax ſhould be laid on the Americans by the Britiſh parliament until they had been permitted to ſend repreſentatives to it; and that the produce of all external taxes impoſed by the parliament ſhould be left to the diſpoſal of the legiſlatures of the ſeveral colonies in which they were raiſed. And, laſtly, if this ſecond method had been thought an improper condeſcenſion in Great-Britain, and unworthy of her dignity, it would, I imagine, have been practicable to ſupport the claims of the mother-country by force, by ſending a body of about 2000, or at moſt 3000, men to Boſton, to prevent ſuch outrages for the future. This was done in the year 1768, when the people of Boſton were almoſt in a ſtate of open rebellion: four regiments

giments were landed there, which together amounted to only 1200 men, and peace was inſtantly reſtored: nor did any freſh diſturbances break out there till two of thoſe regiments had been injudiciouſly, or, at leaſt, unfortunately, removed from thence; after which the mobs of Boſton grew confident that they could maſter the remaining two regiments, and accordingly begun to pick quarrels with them, and brought on that unhappy diſturbance at Beſton, of which we have already ſpoken, in which twelve ſoldiers, firing their pieces in their own defence, killed five of the principal rioters, and wounded about as many more; after which melancholy event the ſoldiers were removed to the king's fort, called *Caſtle William*, at the diſtance of three miles from Boſton. But it is almoſt certain that, if the whole four regiments had continued at Boſton, (though they amounted to only 1200 men,) that unhappy affair would never have happened. As therefore the people of Boſton had, by their outrage againſt the tea of the Eaſt-India Company in December, 1773, made the preſence of a body of ſoldiers amongſt them a ſecond time neceſſary to the preſervation of the publick

peace and the due execution of the laws, it ſeemed to be juſtifiable to ſend thither a body of troops ſufficient to anſwer that purpoſe, as 2000, or at moſt 3000, men in Boſton, with 1000 at Caſtle William, would probably have been. If this had been done, and a ſecond ſhip, loaded with tea, had been ſent thither from England, the cargoe might have been landed under the protection of this garriſon, and the dignity and authority of the Britiſh parliament would have been effectually ſupported. And, when this new cargoe of tea had been once landed, it is not improbable that it might have been ſold amongſt the Americans; as people are often found to do things as individuals, which on formal occaſions, and when met together in numerous bodies to conſult on publick meaſures, they are ready to condemn. At leaſt it is certain that the popular leaders of the Americans apprehended this would be the caſe with the body of the people in America, if once the tea came to be landed; and therefore they took ſuch violent meaſures to prevent its being landed. Now, if once a cargoe of tea had been landed and ſold at Boſton, the example would probably have been followed by the

the other provinces, and the reſiſtance of America to the authority of parliament upon this ſubject would have been at an end. In the mean while the injury done to the Eaſt-India Company might have been repaired in this manner. Proclamations might have been iſſued at Boſton offering rewards for the diſcovery of the rioters who went on board the tea-ſhip in diſguiſes, and deſtroyed the tea; and, if they were thereupon diſcovered, actions of treſpaſs ſhould have been brought againſt them by the agents of the Eaſt-India Company in the courts of juſtice at Boſton. If, upon theſe actions, the juries had refuſed to find verdicts for the plaintiffs, notwithſtanding the evidence was ſufficient to prove the fact, or, if they had found verdicts for the plaintiffs, but had given them compenſations manifeſtly ſhort of the value of the tea that had been deſtroyed; and this had been reported to have been their partial conduct by the judges who would have tried the cauſes; ſo that there had been a manifeſt and enormous failure of juſtice towards the injured party;—or, if, upon the offers of rewards for the diſcovery of the perſons that deſtroyed the tea, no ſuch diſcovery had been made; whereby a

A cautious method that might have been taken to procure ſatisfaction to be made to the Eaſt-India company.

failure

failure of juſtice would have happened for want of proper evidence to ground judicial proceedings on;——in either of theſe caſes, perhaps, but not before, it might have become proper for the Britiſh parliament to interpoſe in ſome extraordinary manner to compel the people of Boſton to do juſtice to the Eaſt-India Company, as, for inſtance, by putting a ſtop to the trade of Boſton, till a certain ſum of money (deemed by the parliament to be a ſufficient compenſation to the Eaſt-India Company for the injury they had ſuſtained,) ſhould have been paid by them to the ſaid company. I ſay only, *perhaps* this might have been proper even in this caſe: for I am not ſure that it would not have been a ſtill better way of proceeding, for the parliament to have conſidered the deſtruction of the tea as a misfortune to the Eaſt-India Company ariſing from the enmity and violence of a few unknown, wicked, men, and not as the act of the people of Boſton in general, and conſequently to have required no compenſation for it from the whole town of Boſton, but either to have let the Eaſt-India Company ſuffer the loſs, (which, it muſt be obſerved, was occaſioned by the compliance of the parliament with the Company's

Company's own requeſt,) or elſe, if compenſation muſt be made to them, to have made it out of the revenue of Great-Britain, upon the ground of the government's having neglected to provide ſuch a force in the town of Boſton as was neceſſary to protect the ſubjects of the Crown in their trade thither. A compenſation of this kind would probably have coſt Great-Britain about twenty thouſand pounds ſterling, and would, if it had prevented the approaching civil war, have been the means of ſaving her more than twenty millions.

Theſe were the meaſures that ought, in my opinion, to have been taken by Great-Britain with reſpect to the people of Boſton after their deſtruction of the tea. But not one tittle of their charter ſhould have been altered, either for the better or the worſe. For this was a ſubject of a different and ſtill more important nature than the other: and the meddling with it was heaping fuel upon the fire of diſcord already kindled, and giving the Americans new matter of complaint and new reaſons for uniting againſt Great-Britain.

FRENCHMAN.

Indeed it is ſurprizing that the Britiſh parliament ſhould have touched upon that new and delicate ſubject, (which I ſee plainly had no relation to the deſtruction of the tea,) when they had already ſo much buſineſs upon their hands to ſettle the diſputes concerning their right of impoſing external taxes in America. The alteration of the charter of Boſton, I ſhould have apprehended, would have been of itſelf almoſt ſufficient to raiſe a rebellion in that province, without the preceding diſſenſions concerning taxation. Nor could any meaſure of the Britiſh parliament tend more to alarm the other provinces of America, and make them aſſiſt the people of Boſton, than this; ſince, if the parliament can thus make alterations in the charter of Maſſachuſet's Bay in one year, and that without any miſconduct proceeding from the charter, it may juſtly be apprehended that they will make the like alterations in the other charters of America in another year: and thus nothing will be ſafe and permanent in all the boaſted liberties of the Americans; but they will wholly depend upon the pleaſure of the

Dangerous tendency of the act for altering the charter of the Maſſachuſet's Bay.

Britiſh

Britiſh parliament. I eaſily conceive that this apprehenſion muſt have ſpread very far amongſt the Americans, and raiſed a prodigious ferment in their minds.

ENGLISHMAN.

It certainly has done ſo, and has contributed more than any former meaſure to make them conſider the cauſe of Boſton as the common cauſe of all America. Till that charter-act was known in America, the people of the other provinces, and more eſpecially thoſe of Penſylvania, were diſpoſed to conſider the inhabitants of Boſton as having gone *a ſtep too far* in their oppoſition to the tea-duty, when they deſtroyed the tea that was the object of it, and thereby did a private injury to the Eaſt-India Company. Thoſe Americans therefore thought it was the duty of the perſons concerned in the commiſſion of that injury, to make the Eaſt-India Company an adequate ſatisfaction for it; even as, in the year 1766, after the repeal of the ſtamp-act, the aſſembly of the ſame province of the Maſſachuſet's Bay had granted conſiderable ſums of money out of the publick revenue of the province, to make amends for the damage that had

The miſchievous effect of the Boſton-charter-act on the minds and reſolutions of the Americans.

been done to the property of particular perſons by the mobs that had oppoſed the ſtamp-duty. And they expected that Great-Britain would take ſome effectual method for compelling them to make ſuch ſatisfaction; and thought it reaſonable that ſhe ſhould do ſo. Nor did they think the Boſton-port bill an unfit method of compelling the town of Boſton to make this ſatisfaction. But when, in a few weeks after the Boſton-port act, the act for altering the charter of the province arrived in America, the tone of all the other provinces was inſtantly changed, and they agreed with the inhabitants of the Maſſachuſet's Bay in declaring that it was then moſt evident that the liberties of all America were in danger, and that meaſures of union muſt be entered into by them all for their preſervation. The deſtruction of the tea, and the ſatisfaction which it was reaſonable to make for it, were now become matters of ſubordinate conſideration;——the very vitals of their liberty, they ſaid, were ſtruck at, and muſt be defended by arms, if they meant to keep them. And then, in a few weeks after this Boſton-charter act, the act for the government of the province of Quebeck was received in America; which

which carried the alarm to the liberties of America ſtill further, if poſſible, than the charter-act, and made them tremble even for the exiſtence of their aſſemblies, (which the charter-act had not meddled with,) and ſuſpect that Great-Britain, if they ſubmitted to her authority, would, in a ſhort time, aboliſh thoſe popular legiſlatures, and govern the ſeveral provinces of America by legiſlative councils conſiſting of perſons to be nominated by the king and removeable at his pleaſure, like that which is eſtabliſhed in Quebeck. This act ſeems to have raiſed the diſcontents in America to their higheſt pitch, and to have driven even the former friends of Great-Britain (whom the popular party had diſtinguiſhed by the name of *tories*, on account of their ſuppoſed want of zeal for the liberties of their country) into the meaſures of the oppoſite party. For ſince this act we have hardly ſeen any perſon amongſt the Americans who has expreſſed the leaſt inclination to acknowledge and ſupport the authority of parliament, except the cuſtom-houſe officers and other officers of government in America, who hold lucrative employments there at the pleaſure of the Crown, and a few of the clergy

The ſaid miſchievous effect was ſtill further increaſed by the Quebeck-act.

of the Church of England, who are eagerly deſirous of having a proteſtant biſhop ſent to America, and who, probably, entertain no hope of ſeeing that favourite meaſure accompliſhed but by the authority of the Britiſh parliament. All the reſt of the Americans ſeem to be averſe to the authority of Great-Britain, though not to be diſpoſed to act with equal vigour in reſiſting it; ſome of them being, as I before obſerved, only paſſive enemies of it, who diſclaim and deny it in as ſtrong terms as their brethren, but are not inclined to reſiſt it by force of arms.

FRENCHMAN.

Of the party in America who were friends to Great-Britain before the paſſing of the ſaid alarming acts of parliament.

You ſeem to ſuppoſe that, till theſe two unhappy acts of parliament were paſſed, there was a party of men of independent condition in America who might be conſidered as the friends of Great-Britain and the authority of the Britiſh parliament. Pray, is that your opinion? and, if it is, upon what grounds do you entertain it?

ENGLISHMAN.

I hardly know what anſwer to make to this queſtion. For I muſt needs confeſs that I have never

never myſelf met with many independent perſons in America who were diſpoſed to acknowledge the authority of the Britiſh parliament to tax them; I mean, of late years, ſince the repeal of the ſtamp-act and the publication of the *Farmer's letters*, and the conſequent non-importation agreements. For fifteen years ago it was acknowledged by every body. I have therefore no reaſon to conclude from my own obſervation that there was, before the paſſing of thoſe two acts, a ſufficient number of perſons of that way of thinking to be called *a party*; though I have on ſome occaſions met with a few ſuch perſons. But it is well known that ſeveral gentlemen of great character and abilities in America, and who have had great opportunities of knowing the ſtate of parties in it, have repeatedly tranſmitted accounts of a different kind to the miniſters of ſtate, and their other correſpondents, in England, in which they have aſſured them that there was a great number of perſons of weight and property in America that were friends to the authority of the Britiſh parliament, and who would be ready, when properly ſupported by a reſpectable body of troops, (that ſhould be juſt ſufficient to keep

the

the mobs in awe,) to declare themſelves to be ſo. And in the ſame accounts theſe gentlemen of eminence have ſpoken of the popular party in America as being *a faction;* and have frequently called them by that name, intimating thereby, (as I ſuppoſe,) either that they were a minority of the people there, who diſturbed their more numerous and peaceable fellow-ſubjects by their violent and tumultuous behaviour, or, at leaſt, that, if they were more numerous than the other party, they had fewer men of property and liberal education amongſt them. Now theſe accounts do not appear to be true with reſpect to the preſent ſtate of America; ſince, though general Gage is now at Boſton with a very large body of troops, there has been no conſiderable number of perſons of any claſs or ſort, high or low, rich or poor, of liberal or of low education, that have declared themſelves in favour of the authority of the Britiſh parliament; but almoſt every body has appeared to be diſſatisfied with it, and many perſons have abſolutely taken arms againſt it and twice engaged the Britiſh troops in battle on that account, and others, of a more peaceable diſpoſition, are wiſhing and ſeeking for

No ſuch party has appeared in America ſince the paſſing of the ſaid two acts of parliament.

for milder ways of ending the diſpute by petitions to the king and propoſals of a treaty and compromiſe with the parliament, but not of a compleat ſubmiſſion to its authority. To reconcile this ſtate of things with the accounts that have been given of America by the perſons of character above-mentioned is no inconſiderable difficulty. It is hardly poſſible to conceive that thoſe perſons ſhould have been ſo intirely miſtaken in their judgements and opinions of the Americans as they muſt appear to have been, if we judge from a ſurvey of the preſent ſtate of America: and ſtill leſs ought we to imagine that they meant to deceive the Britiſh government, and bring on the preſent moſt deſtructive civil war. We muſt therefore conclude that their accounts of the ſentiments of the Americans were true in the year 1772, though they are not ſo now, and that *till that time* there were many perſons in America who (notwithſtanding the claim of the Britiſh parliament to the right of impoſing taxes on the inhabitants, and their exerciſe of that right in the continuance of the trifling duty upon tea) were friends to Great-Britain, and averſe to any meaſures of reſiſtance to the parliament's authority; though

Reaſon for ſuppoſing that there was ſuch a party about the year 1772.

even

even theſe perſons were not, as I believe, diſpoſed expreſsly to acknowledge its right to tax them. But, upon the paſſing the Boſton-charter act and the Quebeck-act in the laſt year, 1774, it ſeems probable that the majority of even theſe friends to government, or Great-Britain, thought it neceſſary to change their conduct and go over to the more violent party who were diſpoſed to reſiſt the authority of parliament by force of arms, as being the only method left them for the preſervation of their liberty. And indeed I have heard more than one of theſe late friends, and now reluctant enemies, of Great-Britain expreſs themſelves in very plain and ſtriking terms to that effect, with a melancholy ſenſibility to the diſtreſsful condition they were driven to, which I ſhall not eaſily forget.

It is probable that this party abandoned the cauſe of Great-Britain upon the paſſing of the ſaid two acts.

FRENCHMAN.

If you can recollect the expreſſions they made uſe of on that ſubject, I ſhould be much obliged to you if you would repeat them. For their own words will beſt convey their ſentiments.

ENG-

ENGLISHMAN.

I will endeavour to do ſo as well as I can: and indeed their expreſſions affected me ſo ſtrongly at the time, that I believe I can recollect a good many of them. They expreſſed themſelves to the following effect. "We have "hitherto been engaged in a diſpute with our "mother country, not concerning the exiſtence "of our aſſemblies, nor the free and full exer-"ciſe of their legiſlative powers for the benefit "of their reſpective colonies, but only con-"cerning their ſubordination to the ſupreme "legiſlature of the whole Britiſh empire, the "parliament of Great-Britain. The members "of that great legiſlature have inſiſted, that "the aſſemblies of the American provinces are "of the nature of the common-councils of the "corporation-towns in the iſland, or kingdom, "of Great-Britain, which have a local and "inferiour ſpecies of legiſlative authority, or, "as it is expreſſed in the American charters "and commiſſions, an authority to make laws "for their own good government, not repug-"nant to the general laws of England, and "which are known by the name of *bye-laws*;

Sentiments of thoſe Americans who had been attached to the intereſt and authority of Great-Britain, and had been ſtigmatiz'd by the name of *Tories* on that account, upon the receipt of the Boſton-charter act and the Quebeck act.

" but without interfering in the leaſt with the
" ſuperiour authority of the parliament, which
" is the ſupream and general legiſlature of the
" whole nation, and has power to bind all the
" ſubjects of the crown in every part of its
" dominions. And we, the ſober and loyal
" party in America, (whom our briſker coun-
" trymen have ſtigmatized with the name of
" *Tories*, on account of our attachment to
" Great-Britain,) being convinced by the force
" of the reaſons alledged in that behalf, and
" deſirous of maintaining our union with Great-
" Britain in the moſt perfect manner, have
" acknowledged the juſtice of this pretenſion,
" and have declared ourſelves to be bound in
" duty, and willing in fact, to obey the ſu-
" pream legiſlative authority of the parlia-
" ment; though we have wiſhed at the ſame
" time, that they would forbear to uſe it for
" the purpoſe of impoſing taxes on us, and
" leave that ſingle and delicate buſineſs to be
" tranſacted by our own aſſemblies, as it had
" always uſed to be till the unfortunate ſtamp-
" act in 1764. Theſe have been our mode-
" rate and friendly ſentiments towards Great-
" Britain, though a more clamorous and vio-
" lent

" lent party among us has inflamed the people
" with notions of a very different kind, and
" has led away a majority in our aſſemblies to
" declare, that they are not ſubordinate in
" any reſpect to the Britiſh parliament, but
" perfectly co-ordinate with it, and equal to
" it in authority within the limits of their re-
" ſpective provinces. Theſe pretenſions we
" are forced to diſapprove, and have, from
" time to time, expreſſed our diſapprobation
" of them, as far as the over-bearing ſpirit of
" the other party, (who have engaged the com-
" mon people on their ſide,) has permitted us
" to do ſo: becauſe we were of opinion, that
" theſe high pretenſions were not only void
" of foundation in truth and reaſon, but that
" they were contrary likewiſe to good policy,
" as they have an immediate tendency to
" ſplit the dominions of the crown of Great-
" Britain into ſo many ſeparate and indepen-
" dant ſtates, and deſtroy that happy union
" and harmony that has hitherto ſubſiſted be-
" tween them. But we had never yet imagi-
" ned, that Great-Britain had begun to envy us
" the enjoyment of our aſſemblies themſelves,
" and to wiſh to have us governed intirely by

" officers of the crown, without any ſhare in
" the appointment of the legiſlatures of our
" reſpective provinces. But now we have
" reaſon to entertain this new and alarming
" ſuſpicion. For an act of parliament is lately
" paſſed, in direct oppoſition to the king's
" proclamation of October, 1763, (which we
" had always looked upon as a ſacred inſtru-
" ment, that was binding on the king and
" nation, and could not be repealed without
" a breach of the publick faith, but which
" this act has boldly reſcinded and annulled
" by expreſs words;) an act of parliament is
" paſſed, to *eſtabliſh*, inſtead of *tolerating*, the
" popiſh religion in the province of Quebeck;
" and to revive the French laws there in all
" matters of property and civil rights; and,
" conſequently, to reſume, from both the
" French and Engliſh inhabitants of the pro-
" vince, the grant that had been made to them
" by the ſaid proclamation, of the Engliſh
" laws concerning the writ of *habeas corpus*,
" and the enjoyment of perſonal liberty, and
" concerning the trial by jury in all civil actions,
" and of divers other beneficial laws of Eng-
" land;-----and to eſtabliſh, inſtead of an
" aſſembly,

" aſſembly, (which had been promiſed them
" by the ſaid proclamation as ſoon as the ſtate
" and circumſtances of the ſaid province would
" permit,) a legiſlative council compoſed of
" perſons nominated by the crown; and which
" is not eſtabliſhed for only a ſmall number of
" years, but is deſigned (for aught that appears
" to the contrary in the act,) to be the perma-
" nent mode of government for that province to
" all future generations;---and laſtly, (which is
" a matter that concerns us more nearly than
" all the reſt,) to enlarge the boundaries of
" the province of Quebeck ſo as to take in the
" five great lakes and all the immenſe and very
" fruitful country contained between them and
" the rivers Ohio and Miſſiſippi, and which
" lies at the back of our provinces; with a
" view, as it ſhould ſeem, that this new and
" favourite mode of government, together with
" the Roman-Catholick religion (now alſo, to
" all appearance, become an object of favour
" with Great-Britain,) ſhould prevail through-
" out all that vaſt country. What then can we
" conclude from ſuch an act of parliament,
" (the paſſing of which would ten years ago
" have been thought an impoſſible event;)

" but

" but that Great-Britain is now governed by
" the counſels of a ſet of men, who, going far
" beyond the late Mr. Grenville's ſentiments
" in their plan of controuling theſe provinces,
" intend not barely to reduce our aſſemblies
" to their antient and conſtitutional condition
" of inferiour legiſlatures, ſubordinate to the
" ſupream authority of the Britiſh parliament,
" but abſolutely to deprive us of them, and
" govern us by legiſlative councils appointed by
" the crown, in imitation of that which they
" have juſt now eſtabliſhed in this immenſe
" new province, which they have erected at
" the back of our ſettlements?----And if this
" be their deſign, it behoves us Engliſh Ame-
" ricans, if we deſerve the name of Engliſh-
" men, and ſet any value on the liberties we
" now enjoy under the protection of our aſſem-
" blies, to unite with heart and hand in de-
" fence of them. In ſuch a cauſe we are ready
" to venture any thing, even life itſelf, the
" continuance of which cannot be pleaſant to
" us after the extinction of our liberty. We
" muſt, therefore, now at laſt give up the
" pleaſing hopes which we, the ſober and loyal
" party in America, (who have acknowledged

" the

" the authority of the Britiſh parliament over
" us,) have hitherto entertained of ſeeing an
" an amicable concluſion of our preſent diſputes
" with our mother-country, ſince ſhe has ſo
" far forgot her parental affection towards us
" as to meditate to reduce us to a ſtate of po-
" litical ſlavery: and we muſt henceforwards
" unite ourſelves with our more violent brethren
" to carry on their ſchemes of independance
" on Great-Britain; ſchemes which *they* have
" adopted from ambition, but which we ſhall
" accede to from the humbler, but not leſs
" cogent, motive of neceſſity, from a ſenſe of
" the impoſſibility of preſerving our former
" degree of liberty without it, after the diſpo-
" ſition which Great-Britain has manifeſted
" with reſpect to us by this ſurprizing act for
" the government of Quebeck."

This was the language held about the autumn of the laſt year, 1774, by ſome of the moſt moderate Americans in the Engliſh provinces upon the paſſing of the late Quebeck bill: and accordingly we ſee that the oppoſition to the authority of the parliament is now become almoſt univerſal throughout thoſe provinces, hardly

hardly any perſons in them having, ſince that time, appeared to have any inclination to acknowledge and ſupport that authority except, as I before obſerved, the cuſtom-houſe officers and other officers of government in America, who hold lucrative employments there at the pleaſure of the Crown, and a few of the Church of England clergy who are moſt ſollicitous for the eſtabliſhment of proteſtant biſhops in thoſe provinces.

FRENCHMAN.

I ſee plainly that the Quebeck-act is equally prejudicial to us Canadians and to the inhabitants of the Engliſh provinces in America. It is intended to keep us in a perpetual ſtate of enmity againſt thoſe provinces by means of the difference of our religions, and to make uſe of our aſſiſtance in ſubduing the rebellious inhabitants of thoſe provinces to the obedience of the Britiſh parliament. But the Britiſh government will find themſelves much miſtaken in this policy. For we Canadians are not diſpoſed to be ſo employed againſt our Engliſh neighbours; nor does the difference of our religious opinions inſpire us with ſentiments of hatred towards them.

The Canadians are not diſpoſed (notwithſtanding their zealous attachment to the Roman-Catholick religion) to be employed in reducing the other Americans to the obedience of the Britiſh parliament.

them, after the humane and friendly treatment we have received from our Engliſh and proteſtant fellow-ſubjects in this province, as well as from the Britiſh government here, for the laſt fifteen years. We are, it is true, zealous Roman-Catholicks: but we are ſo, becauſe we are bred up in that religion, and have no knowledge of any other; and we have happily no antipathy to thoſe who have been educated in other religious opinions, when we ſee that they are ſo candidly diſpoſed to grant us the fulleſt liberty of profeſſing our own. This fine-ſpun, but malignant, ſcheme, therefore, (which has been lately adopted by the Britiſh miniſtry,) of ſetting us at variance with our proteſtant fellow-ſubjects in the neighbouring provinces, will infallibly prove abortive. However, I do not wonder it has alarmed the Engliſh coloniſts in North-America: it ought naturally ſo to do: and I hope they will inſiſt upon this act's being repealed before the preſent diſputes with Great-Britain are brought to a ſettlement.

ENGLISHMAN.

You may depend upon it that they will inſiſt on this as an indiſpenſable preliminary article to any accommodation they may make with

There is reaſon to expect that the Engliſh provinces in North-America will inſiſt on the repeal of the Quebeck-act.

Great-Britain: and likewiſe on the repeal of the Boſton-charter act. Without theſe two conditions they will liſten to no terms whatever, unleſs they ſhould be totally ſubdued by Great-Britain, which (from what we have obſerved before) does not ſeem likely to happen.

FRENCHMAN.

I am glad to hear you ſay that the Engliſh provinces will inſiſt on the repeal of the Quebeck-act as an indiſpenſable article of their reconciliation with Great-Britain. For then I hope it will be obtained: whereas I doubt whether our poor Canadians would have courage and ſteadineſs enough, (notwithſtanding their great diſlike of it) to unite and perſevere in making the petitions to the king and parliament that would be neceſſary to procure a repeal of it. However, I hope that our ſentiments upon this ſubject will be made known to the miniſters of ſtate and other perſons of influence in England, (without our making a formal petition againſt the act,) by the teſtimony of ſuch honeſt and impartial Engliſhmen as from time to time ſhall go from this country to England, who cannot but perceive how greatly and how generally we are diſpleaſed with it.

ENG-

ENGLISHMAN.

I doubt whether ſuch repreſentations as thoſe (however reſpectable they may be, from the number and the characters of the perſons who ſhall make them, and from the uniformity of their teſtimony) will ever procure the repeal of that obnoxious act; and am inclined to think that (if the other American colonies ſhould take no notice of it) nothing leſs than ſtrong and general petitions of the Canadians themſelves will be ſufficient for that purpoſe: if even thoſe would be ſucceſsful. So that your beſt chance of getting rid of this act ſeems to ariſe from the alarm which it has given to the Engliſh colonies and the reſolution with which they ſeem determined to inſiſt on its repeal.

FRENCHMAN.

Well; I hope they will ſucceed in their endeavours to obtain the repeal both of this act and the Boſton-charter act. And then, if Great-Britain would add to theſe repeals a declaration of the kind we have before mentioned concerning the future taxation of America, namely, "that ſhe will never impoſe any internal taxes upon them until they have been

The repeal of the Quebeck-act and the Boſton-charter act, together with a reſolution not to impoſe internal taxes

 permitted

on the Americans, nor to diſpoſe by act of parliament of the revenue produced by external taxes, but to leave it to the diſpoſal of their aſſemblies, and together with an aſſurance that their charters ſhould not be altered for the future without a charge and hearing, would be a good foundation for a reconciliation between Great-Britain and North-America.

permitted to ſend repreſentatives to the Britiſh parliament, and that, when ſhe impoſes any external taxes upon them, the revenue ariſing from ſuch taxes ſhall be left to the diſpoſal of the legiſlatures of the ſeveral provinces in which it ſhall ariſe, reſpectively," and ſome aſſurance that their charters ſhall not, for the future, be taken away or altered, without firſt bringing a formal charge in parliament, accompanied with proper proofs, of an abuſe of the privileges contained in them, and a hearing of the provinces ſo charged in their own defence; I ſhould imagine the Americans would be content to return to their former ſubjection to Great-Britain and acknowledge, or, at leaſt, comply with, the authority of the Britiſh parliament upon all other ſubjects.

ENGLISHMAN.

I intirely agree with you in thinking that theſe are the grand preliminary articles on which a reconciliation with Great-Britain ought to be grounded, and without which there is no proſpect of its taking place. But there are a few other points upon which it would be both eaſy and very prudent for Great-Britain to give the Americans

Americans ſatisfaction, and which otherwiſe may become the occaſions of future diſputes between the two countries. Theſe points are; the lucrative places in America, which are executed by deputies; the quit-rents paid to the king by the holders of land in America; the eſtabliſhment of proteſtant biſhops in America; and the amendment of the conſtitution of the ſeveral councils of thoſe provinces which have no charters, but are governed only by the king's commiſſions to his governours. If theſe points were ſettled to the ſatisfaction of the Americans, (as they might eaſily be without prejudice to the intereſts of Great-Britain,) I ſhould imagine they would greatly contribute to a permanent reconciliation between Great-Britain and her colonies.

Some other points in which it would be expedient to give the Americans ſatisfaction.

FRENCHMAN.

In what manner would you propoſe that theſe matters ſhould be ſettled? and what are the apprehenſions the Americans entertain concerning them?

ENG-

Of the lucrative civil offices in the American colonies, which are enjoyed by persons resident in England, and are executed by deputies in America.

The first of these subjects, the lucrative employments under the government, which are enjoyed by persons resident in England, and executed by deputies, has occasioned frequent complaints in this very province, and particularly amongst the Canadians. How often have you heard your countrymen complain of the *frais de justice, et du bureau du secrétaire de la province*, and perhaps yourself joined with them in making these complaints? Now these are, in part, the effects of the manner in which the offices of provost-marshal and secretary of this province have been granted. In the year 1763, when a resolution was taken by the English ministers of state to establish a civil government in this province of Quebeck by granting to general Murray, (who at that time commanded in it, as the senior military officer on the spot,) a commission to be civil governour of it; but before such commission was received, or had even been passed, and consequently before any courts of justice, or other offices of civil government, were erected there by virtue of it; his Majesty was pleased to grant a commission under the great

Of the commission of provost-marshal in the province of Quebeck.

great ſeal of Great-Britain to an Engliſh gentleman of good eſtate in the county of Suſſex, of the name of Nicholas Turner, (who had not the leaſt intention of coming over to Canada,) to be provoſt-marſhal of the *province of Canada*; for ſo this province is improperly called in this commiſſion, though in the great commiſſion of captain-general and governour in chief granted to general Murray, and likewiſe in the famous royal proclamation of October, 1763, (in which the king declared his intention of erecting a civil government in this province,) it is called *the province of Quebeck*. This commiſſion was dated on the 23d of September, 1763; which was before the dates both of the ſaid commiſſion of governour granted to Gen. Murray, and of the ſaid royal proclamation. It was granted to this Mr. Turner for his life, with a power to execute it by one, or more, ſufficient deputies, who ſhould be reſident in the province, and for whoſe faithful diſcharge of their duty he was to be anſwerable; and with ſuch fees, profits, and advantages as were enjoyed by any other provoſt-marſhal on the whole continent of North-America. By virtue of theſe laſt words Mr. Turner was at liberty to hunt out the largeſt table of fees

Of the fees which the provoſt-marſhal was authorized by the ſaid commiſſion to demand.

fees that could be found in the richeſt provinces of North-America, (as for inſtance, in Penſylvania, Virginia, or South-Carolina,) and make it the ſtandard of thoſe he was authorized to demand for himſelf in this poor province of Quebeck, or, perhaps, to compoſe a new table of fees from the largeſt fees that ſhould be found to be taken in ſeveral different provinces of North-America: for the words of this part of the commiſſion are ſo looſe and general, that it is difficult to aſcertain their true meaning, as you will eaſily perceive when I repeat them. They are as follow; "*with all fees, rights, profits, privileges and advantages whatſoever, thereunto belonging, in as full and ample manner as any other provoſt-marſhal of any our provinces or colonies, in North-America does hold and enjoy, or of right ought to hold and enjoy, the ſame.*" Thus Canada (which was at that time a poor province, and in which the people had been uſed to pay very low fees of office of every kind; I mean ſuch as were low even *for* a poor province;) was at once, in this negligent manner, made liable to pay as great fees as the richeſt province of North-America for every thing done in the office of provoſt-marſhal, that

that is, in the execution of the judgements and orders of all the courts of juſtice in the province; and this for the private benefit of an Engliſh gentleman, who had no intention of coming over to Canada to execute the office himſelf, but who was permitted to farm it out to his deputies for the beſt price he could get. It is no wonder this proceeding was complained of by the Canadians.

The conduct which government ought to have purſued on that occaſion.

Now the conduct which ought to have been purſued on this occaſion was very obvious. An inſtruction ſhould have been ſent to governour Murray and the council of the province, to inquire in the firſt place, what were the fees paid by the people of Canada for the execution of the ſeveral proceſſes of the courts of civil judicature and for the other branches of a provoſt-marſhal's duty, in the time of the French government, and make a report of them to his Majeſty; and, 2dly, to report their opinion concerning the fees which the ſaid people could then afford to pay, and would readily conſent to pay for thoſe ſervices; and, thirdly, what the annual amount of ſuch fees would probably be; and, 4thly, whether it would be moſt

convenient to have one provoſt-marſhal, or ſheriff, for the whole province, or to divide the province (which was very large) into two or three different diſtricts (as in the time of the French government it had been divided into three diſtricts,) and appoint a ſeparate officer of this kind to each diſtrict; and, 5thly, whether, in their opinion, the amount of the fees which the Canadians had been uſed to pay under the French government, or which they could then eaſily afford, and would chearfully conſent, to pay, would be ſufficient to induce capable and reſponſible perſons, reſident in the province, and acquainted with the French as well as the Engliſh language, to undertake theſe offices; and, if theſe fees were not ſufficient for that purpoſe, to report to his Majeſty their opinion of the quantum of the ſalaries which it would be neceſſary to annex to theſe offices, over and above the ſaid moderate fees, in order to induce ſuch capable and reſponſible perſons to undertake them. When theſe things had been carefully inquired into, and fully reported to his Majeſty, by the governour and council of the province, it would have been proper to appoint one or more provoſt-marſhals, or ſheriffs,

riffs, (as ſhould have been thought neceſſary,) who ſhould have been conſtantly reſident in the province and well acquainted with both the French and Engliſh languages, with moderate ſalaries, if neceſſary, and a power to take ſuch very moderate fees as ſhould have been ſet down in a liſt allowed by his Majeſty's order in his privy-council for that purpoſe after the inquiry and report of the governour and council of the province above-mentioned; and without any power to make a deputy, except upon very particular occaſions, as in caſes of ſickneſs; and then with the governour's licence. All this appears to me to be ſo plain, that I ſhould have thought one hour's attention to the ſubject would have ſuggeſted it to any man.

FRENCHMAN.

I ſhould have thought ſo too. And I heartily wiſh his Majeſty's miniſters of ſtate in the year 1763, (when that commiſſion of provoſt-marſhal of this province was granted to that Mr. Turner,) had beſtowed that one hour's attention upon it, and purſued the conduct you mention. It would have prevented thouſands of complaints that have been made in this pro-

The fees allowed by the aforeſaid commiſſion of provoſt-marſhal were too great for the province of Quebeck.

vince concerning the exorbitant fees paid to that officer by thoſe who were engaged in law-ſuits. For, as you well obſerved juſt now, the fees we were uſed to pay on theſe occaſions in the time of the French government, were uncommonly low; ſo that what might appear a very moderate fee to an Engliſh inhabitant of the province, has appeared to us an enormous one: and beſides, this province was one of the pooreſt in North-America at the time of granting that commiſſion; though it has ſince acquired a conſiderable quantity of gold and ſilver by the large exportations of corn that have been made from hence to Barcelona and other places in Spain for theſe ten or twelve years paſt under the mild adminiſtration of the Engliſh government and the protection of the Engliſh laws, which took place here till the late Quebeck-act. And therefore at that time it was very unjuſt to require the people of this province to pay the ſame fees to the provoſt-marſhal as were paid in the rich province of South Carolina. Not to mention the abſurdity of expreſſing a power of demanding fees of the king's ſubjects in ſuch vague and general terms as thoſe which are uſed in this commiſſion, which do not refer to

The clauſe of the commiſſion which relates to the fees deſcribes the quantity of them in a very looſe and uncertain manner.

to any one particular province of North-America, but to all of them together: which ſeems to make thoſe words almoſt unintelligible, and ought, in my opinion, to make the whole commiſſion void on account of its uncertainty.

ENGLISHMAN.

Your obſervation is very juſt. The words of the king's patents ought to be as clear and certain as poſſible, and ought to manifeſt a full knowledge in the king of the extent and value of the things he grants in them, whether they be lands, or rights and privileges of any kind. And, upon this principle, every patent declares the king to act "*ex certâ ſcientiâ*," that is, "of his own certain knowledge;" and where that is not the caſe, the king is conſidered in law as *having been deceived in his grant*, and the patent may be revoked. And this patent ſeems ſo liable to this objection, that I almoſt wonder the lord chancellor of Great-Britain of that time, (who was the earl of Northington, and who was reputed a man of abilities,) ſhould have put the great ſeal to it. But we may ſuppoſe that, in the multiplicity of the buſineſs of his high ſtation, he never read it.

The words of the king's grants ought to be as clear and certain as poſſible.

FRENCH-

FRENCHMAN.

It is unjuſt to eſtabliſh ſuch fees, for the buſineſs done in any office, as are ſufficient to enable the principal officer to procure a deputy, who ſhall do the whole duty of the office, and pay the ſaid principal an annual rent out of the profits of it.

But, if the patent had been ever ſo correct in the wording of it, and had even ſet forth a liſt of the fees which it had enabled the provoſt-marſhal to demand, (as it ought to have done,); and if this province had been rich inſtead of poor; and theſe fees had been very moderate, and ſuch as the Canadians could have afforded to pay; yet I ſhould ſtill have thought that the granting of this office to a perſon who was to reſide in England, and to execute it by a deputy, would have been a wrong meaſure, and unjuſt towards the inhabitants of this province. For why ſhould we Canadians be forced to pay a tax, (under the form and name of fees,) for the maintenance, or convenience, of an Engliſh gentleman reſiding in the county of Suſſex? For every part of the fees we pay to any officer, beyond what is ſufficient for a reward to the acting perſon who really does the duty of the office, is, in truth, a tax upon the ſubject for the ſupport of an idle man: and, whenever the fees of an office are ſo great and ſo numerous that a proper and ſufficient man can be found that is willing

to

to act as a deputy in the office for a part of the profits of it, and consequently to pay a farm-rent to the principal officer for the privilege of acting as his deputy, the fees of that office, (however small they may be,) are too great by just so much as contributes to produce the rent paid to the principal officer, and ought, in point of justice, to be reduced so far as to annihilate that rent.

ENGLISHMAN.

This objection is made by the Americans to the lucrative offices in their several governments, which are given to persons resident in England, and executed by their deputies in America.

You now enter fully into my objection to these lucrative places in America, which are enjoyed by persons residing in England and executed by deputies who farm them. The Americans consider them in the light in which you have just now placed them, and complain of them as instances of the disposition of the British government to neglect the welfare and satisfaction of the American provinces, and to make use of them only as a fund for increasing the influence of the crown in gratifying its favourites in Great-Britain with lucrative and sinecure employments. This ground of complaint I would therefore fain see removed, by abolishing the patents that have been granted of these offices

And it ought to be removed, in order to give the Americans satisfaction.

offices to perſons reſident in Great-Britain, (I mean with proper compenſations to the patentees for the loſs of them,) and regulating the offices themſelves in a manner that would be ſatisfactory to the Americans.

FRENCHMAN.

Of the office of ſecretary of the province of Quebeck.

I think you mentioned the office of ſecretary of this province as having been granted to a gentleman in England with the like power of making a deputy, who ſhould reſide in the province and do the duty of it; and that that has been, in a great meaſure, the cauſe of the complaints that have been made in this province againſt the great fees that have been required of us for all the buſineſs done in that office. Pray, to whom, and in what manner, was this office granted, upon the eſtabliſhment of the civil government of this province?

ENGLISHMAN.

It was granted to a gentleman of the name of Ellis, who had been governour of South-Carolina, and who was a great favourite of the late earl of Halifax, who was at that time one of his Majeſty's ſecretaries of ſtate. The patent

is

is dated on the 30th of April, 1763, that is, more than five months before the date of the proclamation of October, 1763, in which his Majesty declared his royal intention of establishing a civil government in this province, and consequently before it was known with certainty that such an office as that of secretary of the province would be necessary. And, lest the profits of the office of secretary of the province should prove too small to be worth an English gentleman's notice, three other offices of great importance in this province were granted to the same person by the same patent, to wit, the offices of clerk of the council of the province, commissary, or steward general, of the provisions and stores of the king's forces in this province, and clerk of the inrolments for the inrolling and registering all deeds and conveyances made in the said province, and also all bills of sale and letters patent, or other acts or matters usually inrolled, or which by the laws of that province should be directed to be inrolled.

Three other offices were granted to the same person by the same patent.

It seems rather strange to talk of matters *usually inrolled* in a province which hitherto had had no civil government in it since its sub-

A remark on the inaccurate wording of the patent

jection to the crown of Great-Britain. But ſuch are the words of the patent; by which you may ſee how negligently matters of this kind were tranſacted.

A power was given in the patent to execute the ſaid offices by deputy.

All theſe four offices were given by this patent to the ſaid gentleman to hold during his natural life, with a power to execute them by one or more ſufficient deputies, who ſhould reſide in the province, and for whom he ſhould be anſwerable. And, accordingly, Mr. Ellis ſoon after farmed them all out to a deputy, (who was reſident in this province,) for the ſum of £.300 ſterling a year.

They were, accordingly, farmed out to a deputy for 300l. a year.

Of the fees to be taken in theſe offices.

The clauſe about the fees to be taken in theſe offices ſeems to be leſs liable to exception than the clauſe upon that ſubject in the commiſſion of the provoſt-marſhal; becauſe it ſeems rather to refer to ſuch fees as ſhall be thereafter eſtabliſhed in the province by ſome ſufficient authority, (it does not ſay, by *what* authority;) than to authorize the patentee to take the higheſt fees he can find to be taken in the like offices in any of the provinces of North-America, as is done in that other patent. Yet the words of it

are

are much too vague and uncertain, as I believe you will readily agree with me, when I repeat them to you. They are as follows. "*With all the ſalaries, fees, profits, perquiſites, and advantages whatſoever to the ſaid offices and places, or any of them, jointly or ſeverally in any wiſe belonging, or which are or ſhall be eſtabliſhed, or allowed, for, or in reſpect of, the exerciſe, or execution of the ſaid offices and places reſpectively, in as full and ample manner, to all intents and purpoſes, as any other ſecretary, or clerk of the council, of any of our provinces of North-America does hold and enjoy, or of right to hold or enjoy, the ſame.*" You ſee here another inſtance of negligence. The two other offices, of *commiſſary of the ſtores*, and *clerk of the inrolments of deeds and conveyances*, are intirely omitted in this clauſe concerning the fees and perquiſites.

The clauſe of the patent relating to the fees.

FRENCHMAN.

Indeed this ſeems to be a ſtrange omiſſion: and with reſpect to the fees to be taken in the two offices of ſecretary of the province and clerk of the council, it ſeems doubtful to me whether this clauſe (which, though very verboſe, is wonderfully obſcure,) was not intended to

A conjecture concerning the meaning of the ſaid clauſe.

to give the patentee a right to take all the fees that were taken by perſons who held the ſame offices in any of the provinces of North-America, and alſo to take ſuch other fees as ſhould be eſtabliſhed, or allowed, in this province for other matters that might not be tranſacted in other provinces, or for which, (if they were tranſacted there) it might happen that no fees were taken.

ENGLISHMAN.

Perhaps this may be the true meaning of theſe words. But it is certain they are much too vague and obſcure, and ſhew that very little regard was paid, at the time of granting that patent, to the convenience and circumſtances of the inhabitants of this province, or to any thing but the intereſt of the patentee. Accordingly you well know that the fees of the office of ſecretary of this province and of the office of clerk of the inrolments, or (as it is more frequently called,) of regiſter of the province, have been much complained of by the Canadians, as intolerably heavy.

FRENCH-

FRENCHMAN.

Oh! univerſally, and moſt juſtly: for they were often found to be much too large for the abilities of us poor Canadians. But I hear that theſe offices are now going to be put under a better regulation by the care and direction of our governour, general Carleton. Pray, is this true?

ENGLISHMAN.

It is. General Carleton, having been much affected by the frequent and loud complaints made to him by the Canadians againſt the fees taken in theſe and the like offices, and finding that no redreſs could be given to them by his authority as governour of the province, by reaſon of the permanent intereſt which the holders of theſe offices had in them for their reſpective lives by theſe patents under the great ſeal of Great-Britain, did, when he was lately in England, recommend it ſtrongly to the king's miniſters of ſtate, to procure theſe patents to be aboliſhed, and give the patentees adequate penſions for their lives in lieu of them. And this wholeſome advice has been taken, and the thing done,

The aforeſaid patents were aboliſhed by the late Quebeck-act.

done, though in a manner which was not quite conſiſtent with the reſpect that was due to the two houſes of the Britiſh parliament.

FRENCHMAN.

Pray, what was the manner of doing it?

ENGLISHMAN.

The remarkable manner of the ſaid abolition.

It was a manner of proceeding that you would never have thought of for ſuch a purpoſe. It was by drawing in the Houſe of Commons and Houſe of Lords to aboliſh theſe patents under the great ſeal of Great-Britain by three or four general words in a clauſe of the Quebeck-bill, without knowing what they were about, or that ſuch patents were intended to be aboliſhed, or that the patentees had conſented that they ſhould be aboliſhed, or had received ſatisfactory compenſations for the abolition of them, or, perhaps, that any ſuch patents had ever been granted. The preamble to the ſecond great enacting clauſe of the Quebeck-bill ſtates, " that the proviſions made for the government of the province of Quebeck by the royal proclamation of October, 1763, and the powers and

and authorities given to the governour and other civil officers of the ſaid province by the grants and commiſſions iſſued in conſequence of the ſaid proclamation, had been found, upon experience, to be inapplicable to the ſtate and circumſtances of the ſaid provinces;" and then the ſaid enacting clauſe enacts, "That the ſaid proclamation, ſo far as the ſame relates to the ſaid province of Quebeck, and the commiſſion under the authority whereof the government of the ſaid province is at preſent adminiſtered, and all and every the ordinance and ordinances, made by the governour and council of Quebeck for the time being, relative to the civil government and adminiſtration of juſtice in the ſaid province, and all commiſſions to judges and other officers thereof, be revoked, annulled, and made void, from and after the firſt day of May, one thouſand, ſeven hundred, and ſeventy-five." In this clauſe, under the words "*other officers thereof*" come our friends the provoſt-marſhal and that multiform officer, the ſecretary of the province, clerk of the council, clerk of the inrolments, and commiſſary of the ſtores, and another patent-officer of leſs importance, called *the naval officer*. But, I dare ſay, very few

few members of either houſe of parliament ſuſpected that any of the commiſſions hereby vacated were beneficial patents for life under the great ſeal of Great-Britain. They would otherwiſe, moſt certainly, have inquired whether the patentees of ſuch offices were contented that their patents ſhould be vacated, and were ſatisfied with the compenſations they were to receive in lieu of them. But no ſuch inquiry was made, and not a word was ſaid about them. It is true indeed that one of theſe patentees, Mr. Turner, the provoſt-marſhal, died juſt a little before the Quebeck-bill paſſed, but, (if I remember right,) after it had been brought into the Houſe of Lords. But the other two, that is, the ſecretary of the province, and clerk of the council, &c. who was one Mr. Roberts, (governour Ellis, the original patentee of theſe offices, having reſigned them ſome years before, upon a private agreement with Mr. Roberts, and a new patent for them, under the great ſeal of Great-Britain, having been granted to the ſaid Mr. Roberts,) and the naval officer, were ſtill alive. Yet no information was given to either houſe of parliament that ſuch officers were either dead, or alive, or had reſigned their offices,

offices, or conſented that they ſhould be aboliſhed in conſequence of reaſonable compenſations received, or to be received, in lieu of them, nor even that ſuch offices had ever been granted for life by patents under the great ſeal; but they were artfully drawn in to aboliſh theſe patents, without knowing it, under the general words above-mentioned, "*other officers thereof.*" Now this I conſider as a great *indecorum*, in the conduct of the perſons who framed and brought in that bill, with reſpect to both houſes of parliament.

FRENCHMAN.

A very great one indeed! and ſuch as I ſhould never have ſuſpected! I hope, however, that the patentees had reaſonable compenſations made them in private for the loſs of their offices, tho' I think it was originally wrong to grant them ſuch offices.

ENGLISHMAN.

I have been well aſſured that the ſaid ſecretary of the province, and clerk of the council, &c. and the ſaid naval officer have, both of them, received ample compenſations for the

loſs of their patents: ſo that the proceeding has not been injurious to them, though juſtly liable to cenſure on account of its diſreſpectfulneſs to the two houſes of parliament.---But I hope you now conceive the objections which the Americans entertain againſt the lucrative places in their reſpective provinces, which are granted for life to perſons reſident in Great-Britain, and executed in America by deputies; and why I wiſh to ſee thoſe grants aboliſhed.

FRENCHMAN.

I conceive thoſe objections moſt clearly; and I think them very juſtly founded; and therefore join moſt heartily with you in your propoſal of aboliſhing theſe grants, which would, doubtleſs, give great pleaſure to the Americans. And I further think that it would be proper to take care never to give more than one of theſe offices to one perſon, even when they are given (as, we before agreed, they ought to be) to perſons reſident in the provinces where they are held, and without a power of appointing a deputy, except in certain extraordinary caſes, and then with the governour's licence. For ſurely an office is more likely to be well executed,

The aforeſaid civil offices ought to be given to ſeparate officers, reſident in the provinces to which they belong, and not ſeveral of them to one man.

executed when it is the only office of the perſon who holds it, than when it is one amongſt many that are enjoyed by the ſame man, and can therefore claim only a part of his time and attention. Not to mention that the monopoly of offices under government is always odious in itſelf, (even if the duty of them were to be perfectly well executed,) and gives room to envy and diſcontent.

ENGLISHMAN.

Your obſervation is perfectly juſt. And I therefore ſhould be glad to ſee a proviſion made by authority of parliament that no two of theſe places ſhould be held by the ſame perſon. I am alſo inclined to think that moſt of theſe offices ſhould not be given away by his Majeſty's own appointments, but by thoſe of the governours of the ſeveral provinces to which they belong; becauſe theſe governours are much more likely to know who are the fitteſt perſons, reſident in their reſpective provinces, to diſcharge the duty of theſe offices, than his Majeſty's ſecretaries of ſtate, or other miniſters of ſtate, in England, upon whoſe recommendations his Majeſty's own appointments to offices are uſually made.

Moſt of theſe officers ſhould be appointed by the governours of the provinces, and not by the king.

They should not be liable to be removed, or suspended, by the governours alone, but by the governours with the consent of the majority of the councils of the provinces, or by the king in his privy council.

But, when once these civil officers were appointed by the governours, it might be expedient that they should hold their places with some degree of independance on them, and not be liable to be either removed from their offices, or suspended from the exercise of them, at the pleasure of the said governours alone, but only by an order of the governour and council of each province conjointly, by a concurrence of a majority of the whole number of its members with the governour, or by his Majesty's own order in his privy council.

The fees to be taken for the future by these officers should be settled by the assemblies of the provinces.

And, as to the fees to be taken by these officers, they ought to be settled by the assemblies of the several provinces in which they are to be paid, they being a sort of tax upon the people.

FRENCHMAN.

Of the compensations to be made to the patentees of these offices.

This would certainly be a very just and satisfactory regulation with respect to the Americans. But would not the compensations that must be given to the patentees for the loss of their offices, amount to a considerable sum of money per annum? And out of what fund ought they to be paid?

ENG-

ENGLISHMAN.

As the deſign of ſuch a meaſure would be to promote a reconciliation between Great-Britain and her American colonies, (which would be an event of the utmoſt advantage to Great-Britain,) I would have theſe compenſations to the patentees charged on the revenue of Great-Britain. What they would amount to, I cannot ſay with any certainty. But I ſhould think they could not exceed twenty thouſand pounds ſterling per annum while all the patentees remain alive; which, though it is a conſiderable ſum of money, will make but a ſmall part of the firſt year's expence of the civil war we ſeem likely to enter into with theſe colonies. And in a few years it would be annihilated by the deaths of the patentees. That conſideration therefore ought to be no objection to this meaſure, if in other reſpects it deſerves to be adopted. What I therefore would propoſe upon this ſubject, (to bring the whole into one view;) is as follows.

The whole regulation recommended on this ſubject.

In the firſt place to require the ſeveral perſons who have patents under the great ſeal of Great-Britain for their lives, or during their good behaviour, of any of the following places in any of the Britiſh colonies or provinces in North-America,

America, or the Weſt-India iſlands, to wit, the place of ſecretary of a province, or clerk of the council of a province, or clerk of the inrolments of deeds and conveyances, or commiſſary, or ſteward, of the proviſions and ſtores of the king's forces in the ſame, or provoſt-marſhal, or ſheriff, of the ſame, or naval officer of the ſame, or coroner of the ſame, or regiſter of the court of Chancery in the ſame, or clerk of any court of juſtice in the ſame; or of any other civil employment in the ſame, by virtue of which fees are taken from the inhabitants of the ſaid province; to deliver in upon oath to the Britiſh Houſe of Commons an account of the profits they have received from their ſaid offices reſpectively during the laſt ſeven years, and to ſet forth the ſeveral particulars from which thoſe profits have ariſen, as well as they are able, and the rents at which they have let their offices to farm to their ſeveral deputies, and to give full anſwers to all queſtions that ſhall be aſked them by any members of the Houſe of Commons concerning the ſaid offices.

Secondly, After this inquiry into the nature and profits of theſe offices, to paſs an act of parliament to vacate all the ſaid patents and

ſettle

ſettle upon the ſeveral patentees penſions for their lives, payable out of the ſinking fund, producing, (clear of all taxes and other deductions,) ſums equal to the yearly value of the rents received by the ſeveral patentees, from the deputies who have farmed their offices of them, upon an average during the laſt ſeven years.

Thirdly, To enact in the ſame act of parliament, that the ſaid offices ſhall never more be granted to any perſons for their lives, nor with a general power to execute them by deputy, but ſhall be given only to perſons reſiding in the province, without any power to appoint a deputy, unleſs in caſe of grievous ſickneſs, and then with the governour's licence, and for a term not exceeding three months.

Fourthly, To provide in the ſame act that no fees ſhall be taken for the future by the perſons who ſhall be appointed to the ſaid offices, but ſuch as ſhall be appointed and allowed by the general aſſembly of the province in which they are to be paid.

Fifthly,

Fifthly, To provide in the ſame act that no two of the ſaid offices ſhall, under any pretence whatſoever, be holden by the ſame perſon; and, conſequently, that the acceptance of a ſecond office by a perſon who is poſſeſſed of one of theſe offices before, ſhall operate as a reſignation of the firſt office.

Sixthly, To provide in the ſame act, that the offices of ſecretary of the province, clerk of the council of the province, regiſter of the court of Chancery, clerk of the inrolments of deeds and conveyances, provoſt-marſhal, or ſheriff, and coroner, in every province, ſhall be granted by the governour of every province by a commiſſion under the publick ſeal of the ſame, of which he (by his commiſſion of governour) is the keeper; and that they ſhall hold their ſaid offices without being liable to be either removed from the ſame, or ſuſpended from the exerciſe of the ſame, by the governour of the ſaid province alone, but ſhall be liable to be removed therefrom by the governour and the council of the ſaid province conjointly, provided that a majority of the whole number of the members of the council, (including the abſent members as well as thoſe that are preſent,)

ſhall

ſhall concur with the governour in ſuch a motion; and likewiſe they ſhall be liable to be removed by the king's majeſty by his order in his privy-council.

Seventhly, To provide in the ſame act for the appointment of the other officers of the province, who perhaps ought not to be appointed by the governour. I am inclined to think that the clerks of the ſeveral courts of juſtice ought to be appointed by the judges of thoſe courts, or the chief juſtice of each, as is the practice in England; and that the receiver-general of the revenue, and the collector and comptroller of the cuſtoms, and the naval officer, ought to have no ſort of dependance on the governour, but to be appointed by the king himſelf, or the lords of the treaſury, or ſome other of his Majeſty's miniſters in England. But, whether theſe opinions are well or ill founded, at leaſt it ought to be clearly aſcertained in the act, by whom theſe other officers ſhould be appointed, and with what tenure in their offices; to the end that all future abuſes may be prevented.

Eighthly, It ſhould be provided in the ſame act, that no place, or office, in any of the colonies, or provinces, of North-America or the Weſt-Indies, ſhould upon any occaſion, or under any pretence, be granted in reverſion; as nothing can be more abſurd and liable to abuſe than this practice of granting places in reverſion.

And, ninthly, It ſhould be provided in the ſame act, that no place, or office, whatſoever in any of the ſaid colonies, or provinces, ſhould be granted even in poſſeſſion to any perſon under the age of five and twenty years: becauſe the giving employments of conſequence to boys, or very young men, through favour, very much degrades the dignity of government.

You now ſee in one view the whole of what occurs to me as fit to be done upon this ſubject of the lucrative offices in America, in order to give the Americans ſatisfaction.

FRENCHMAN.

I underſtand your propoſal perfectly, and intirely approve it. It would be doing for all the colonies in America and the Weſt-Indies in a publick, deliberate, authentick manner, with

with the conſent and ſatisfaction of all the parties concerned, what has been done already, (though in a clandeſtine way,) by general Carleton's good advice, with reſpect to this province of Quebeck by the clauſe in the Quebeck-act which aboliſhes the patent-offices above-mentioned. And it would add to that meaſure, (which, I hope, will prove beneficial to this province,) many other regulations concerning the civil offices held in America, which have not been made in this province, but which ſeem neceſſary to prevent other abuſes and complaints with reſpect to them; more eſpecially the ſettlement of the fees to be taken in them by the aſſemblies of the provinces in which they are to be paid. Nothing can be *more juſt* than this, nor tend more to give the Americans ſatisfaction.

End of the conſideration of the lucrative civil offices in America, which are executed by deputy.

But, I think, you mentioned ſome other articles, in which you wiſhed Great-Britain to make ſome condeſcenſions for the further gratification of the Americans, and particularly with reſpect to the quit-rents paid to the Crown by the owners of land in America. I beg you would inform me what thoſe quit-rents are, and what you would wiſh to ſee done with them.

Of the quit-rents due to the Crown in North-America.

ENGLISHMAN.

That I can eaſily do, as the ſubject lies in a very narrow compaſs. You muſt know then that in all the Engliſh provinces in North-America, except Penſylvania and Maryland, the lands are all holden immediately of the king, without any intermediate lord, or ſeignior. And they are almoſt all (for I believe there may be a few exceptions,) obliged to pay him a very ſmall yearly quit-rent for the lands they ſo hold of him, by virtue of a reſervation of ſuch quit-rent in the original grants by which they hold them. This quit-rent is uſually only two ſhillings ſterling, for every hundred acres of land, which is nearly one farthing per acre, that is, (in your money,) about half a French ſol per acre. This is certainly a very eaſy quit-rent: but, eaſy as it is, I am told, it is very negligently paid, and ſometimes complained of by the Americans. It is ſaid to produce to the Crown about fifteen thouſand pounds *per annum*; which is the quit-rent due, (according to the foregoing rate,) upon fifteen millions of acres, one million of farthings (which is the rent due for one million of acres,) being nearly

equal

equal to a thouſand pounds. Now the Americans are apt to complain that this money is carried out of their country for nothing, and ſerves only to fill the king's privy-purſe, without producing any benefit to the induſtrious land-holders who pay it; whereas it ought, ſay they, in point of juſtice, to be ſpent in America, in the provinces in which it reſpectively ariſes, in matters of publick benefit to the inhabitants of the ſaid provinces, as for inſtance, in paying the governours and judges, and other officers of civil government, in them. This may, perhaps, be too rigid a way of reaſoning upon this ſubject; ſince it ſeems to be as reaſonable that the Americans ſhould contribute ſomething to the king's privy purſe and houſhold expences as that their fellow-ſubjects in Great-Britain ſhould do ſo; and theſe quit-rents are a very eaſy contribution for that purpoſe. But, in order to remove every ſhadow of injuſtice, and every poſſible ground of complaint, upon this ſubject, I would have the king give up theſe quit-rents and all other royal dues he may be intitled to receive in America, to the ſeveral provinces of America in which they ariſe, to be applied to publick uſes in the ſaid provinces, ſuch

Complaints of the Americans concerning the ſaid quit-rents.

A propoſal concerning the ſaid quit-rents, with a view to the ſatisfaction of the Americans.

ſuch as the payment of the ſalaries of the governours and judges, and ſheriffs or provoſt-marſhals, and coroners, and other officers of juſtice and civil government in the ſame, ſo as to leſſen the taxes which it might be neceſſary for the governours, councils, and aſſemblies of the ſaid provinces, reſpectively, to lay on the inhabitants of the ſame for the ſaid purpoſe. And, when this was done, inſtead of having a perſon reſident in England appointed to be the receiver of all the king's quit-rents in America, (as has hitherto been the practice,) a ſeparate receiver and collector of the ſaid quit-rents and other royal dues, ſhould be appointed in every ſeparate province, either by the king's majeſty, or the governour of the ſaid province, who ſhould hold his ſaid office only during his reſidence in the ſaid province. But, as it is indiſputably his Majeſty's prerogative to ſettle the proper ſalaries and rewards of the officers of civil government in all the dominions of the Crown, the portions of the amount of theſe quit-rents in every province that ſhould be aſſigned to the governour and judges and other publick officers in the ſame, ſhould be ſuch as his Majeſty, in his royal wiſdom, ſhould think fit to appoint.

And

And it ſhould be provided further, That no governour, judge, or other officer of the civil government of any of the ſaid provinces in which ſuch quit-rents ſhould be paid, ſhould receive any part of the ſalaries ariſing from theſe quit-rents, or other royal dues, during the time of his abſence from the ſaid province, or (after his return to the province) in conſideration of his having held the ſaid office during ſuch abſence; but that ſo much of his ſaid ſalary (ariſing from the ſaid quit-rents and other royal dues,) as would have accrued to him in the ſaid ſpace of time, if he had reſided during the ſame in the ſaid province, ſhall be deemed to be forfeited by his ſaid abſence, and ſhall make a part of the publick treaſure of the province, and be diſpoſed of by the joint act of the governour, council, and aſſembly of the ſaid province.

By means of this proviſion it would become difficult to convert the offices of governour, chief juſtice, and the like, into ſinecure places for perſons reſiding in England, while the duty of them ſhould be executed by lieutenant-governours, or puiſney judges, or other deputies

or

or ſubſtitutes; as was the caſe a few years ago with the office of governour of Virginia, after the inhabitants of that province had, in their general aſſembly, granted a handſome permanent ſalary of £.3000 ſterling a year for the ſupport of it, and as is now the caſe with the offices of governour of the iſland of Guernſey and of governour of the iſland of Jerſey on the coaſt of Normandy, much to the diſſatisfaction of the poor people of thoſe iſlands, who have no means of getting this matter redreſſed. And yet, you will obſerve, this proviſion would leave a poſſibility of a governour's, or other civil officer's, being abſent from the province, during a reaſonable time, for ſome juſt and urgent reaſon, without loſing this portion of his ſalary; becauſe it would be in the power of the aſſembly to make him a grant of the ſaid portion of his ſalary after his return to the province by concurring in a joint act for that purpoſe with the governour and council of the province.

The receiver of theſe quit-rents ſhould not be removed from his ſaid office at the pleaſure of the governour alone, but only by the governour and council of the province conjointly, by

by the concurrence of a majority of the whole council (the abſent members included) with the governour, in ſuch a motion, or by the order of the king himſelf in his privy council.

The amount of the ſaid quit-rents ſhould be made good to the king out of the revenue of Great-Britain.

And, to prevent any objection that might be made to this appropriation of the quit-rents of America to the publick uſes of the ſeveral provinces in which they are paid reſpectively, which might ariſe from the conſideration of its cauſing a diminution of his Majeſty's revenue, I ſhould be glad to ſee the whole fifteen thouſand pounds *per annum*, to which they are ſaid to have amounted, or the whole ſum, (whatever it be,) to which they did amount in any one year ſince they have been eſtabliſhed, made good to his Majeſty out of the revenue of Great-Britain. This would be a great conceſſion from Great-Britain to the American colonies, but ſuch as it would be very well worth her while to make for the ſake of a reconciliation with them. It would be a gift to them of leſs than the annual intereſt of half a million of pounds ſterling, that is, in all probability, of only one month's expence of the approaching moſt deſtructive civil war.

FRENCHMAN.

I intirely approve this propoſal, which, if not a matter of juſtice with reſpect to the Americans, upon the ſuppoſition that thoſe quit-rents were originally reſerved for the purpoſe of maintaining the civil governments of the ſeveral provinces in which they ariſe, (which ſeems probable) is, at leaſt, a very prudent piece of generoſity, and is excellently well calculated to remove that jealous apprehenſion which you repreſented the Americans to be poſſeſſed with, that the governing powers in Great-Britain were perfectly indifferent to their welfare and ſatisfaction, and diſpoſed to conſider and treat them only as a fund for increaſing the revenue of the Crown and the means of gratifying its favourites with penſions or ſinecure employments. To remove this ugly ſuſpicion I take to be a matter of great importance in the preſent alarming criſis, and almoſt as neceſſary as to guard againſt more ſubſtantial grievances.

ENGLISHMAN.

Your remark is very juſt, and agrees with what was ſaid not long ago by that great miniſter of ſtate, the Earl of Chatham. He told the Houſe of Lords in a debate laſt winter upon the preſent ſtate of America, that they muſt not only repeal ſome of the obnoxious acts of parliament which they had lately paſſed againſt the Americans, (and particularly the Boſton-charter act and the Quebeck act,) but they muſt *repeal the animoſity* that ſubſiſts between the people of the two countries, which thoſe acts and the other meaſures of Great-Britain with reſpect to America had given riſe to. This has generally been thought to be a very wiſe and true ſaying of that great man, and to have been expreſſed with his uſual happy energy of diction. And it is in purſuance of the wholſome advice it contains, that I could wiſh to ſee the above conceſſions made by the Britiſh government to the Americans as a proof that they had repealed ſome of their own animoſity againſt the Americans, and an inducement to the Americans to repeal ſome of theirs againſt Great-Britain.

Of the neceſſity of recovering the good will and confidence of the Americans.

FRENCHMAN.

Of other royal dues in America, beſides the quit-rents.

I obſerved that, beſides the quit-rents due to the king from the proprietors of land in America, you juſt now mentioned ſome *other royal dues there*. Pray, what are thoſe other royal dues, which you would have to be given up by the Crown for the benefit of the provinces in which they ariſe? Are there many of them, and of any conſiderable value?

ENGLISHMAN.

I believe there are very few, if any, ſuch other royal dues, except the fifth part of the gold and ſilver which may be found in any mines there. And no ſuch mines have hitherto been diſcovered. But, as I am not ſufficiently informed of all the royal rights in America, I added thoſe words concerning *other royal dues there*, in order to comprehend all ſuch profits ariſing in America, and eſpecially in North-America, as may be found to belong to the king alone, ſo as to be wholly at his Majeſty's diſpoſal, in contradiſtinction to ſuch revenues, ariſing in the ſaid country, as may be already appropriated

appropriated by the Britiſh parliament, or by the aſſemblies of the provinces in which they ariſe, to ſome publick uſes. For all profits of the former deſcription, (or that are intirely at the king's diſpoſal) are, (in my eſtimation,) of the nature of quit-rents, and ſhould be ſurrendered up, as well as the quit-rents, to the provinces in which they reſpectively ariſe, to be there applied to publick uſes for the benefit of the ſaid provinces.

Of the duty of four and a half per cent. paid to the Crown upon goods exported from ſome of the Weſt-India iſlands.

And, indeed, it would be a conſiderable improvement of this propoſal, if the four and an half per cent. duty upon ſugars and other commodities exported from ſeveral of the Weſt-India iſlands, which is now paid to the Crown and diſpoſed of intirely at the pleaſure of the Crown, were in like manner to be given up to the ſeveral iſlands in which it is paid, to be therein applied (as it was originally intended to be applied) to the maintenance of the civil governments of the ſaid iſlands or to other publick uſes for the benefit of the ſame. But this, though in itſelf a juſt and proper meaſure, does not ſeem to be neceſſary towards the preſent object of a reconciliation between Great-Britain and the provinces of North-America.

FRENCH-

FRENCHMAN.

Though ſuch a meaſure may not be abſolutely neceſſary to a reconciliation between Great-Britain and North-America, yet ſurely this is a moſt convenient ſeaſon for rectifying every publick abuſe relating to every part of America. I therefore beg you would explain to me what this four and a half per cent. duty is, how it was originally created, and to what purpoſes it is uſually applied.

ENGLISHMAN.

I am afraid I ſhall not be able to give you all the ſatisfaction you may deſire upon this ſubject, not being perfectly acquainted with it myſelf in all its circumſtances. However, I will endeavour to give you all the information I have myſelf received upon it, and which is principally derived from an account which I have ſeen of a famous action at law which has lately been decided by the court of King's Bench in England. This action was brought concerning the payment of this duty of four and a half per cent. upon all dead commodities exported

ported from the newly-ceded French iſland of Grenada in the Weſt-Indies, in which a ſtrange attempt had been made in the year 1764 to impoſe it on the inhabitants by means of the king's prerogative alone, without the interpoſition of either the Britiſh parliament, or the aſſembly of the freeholders of the iſland. This cauſe is uſually called the caſe of *Campbell* and *Hall*, from the names of the plaintiff and defendant in it. It was finally determined on the 28th of laſt November, 1774, by Lord Mansfield, the chief juſtice of the King's Bench in England, and Mr. Juſtice Aſton, Mr. Juſtice Willes, and Mr. Juſtice Aſhurſt, the three other judges of that court, in favour of the plaintiff Campbell, who had been illegally compelled to pay this duty upon a certain quantity of ſugar which he had exported from Grenada.

An attempt was made in the year 1764 to impoſe this duty on the inhabitants of the conquered iſland of Grenada by the king's prerogative.

In the courſe of this cauſe it appeared that the ſaid duty of four and a half per cent. had been paid to the Crown for many years paſt in the iſland of Barbadoes and in the Leeward Caribbee iſlands, that is, in the iſlands of Nevis, Saint Chriſtopher, Antigua, and Montſerrat, by virtue of acts of aſſembly paſſed in the ſaid iſlands

This duty had been paid for about an hundred years paſt in the Leeward Caribbee iſlands, in conſequence of grants made of it by the aſſemblies of thoſe iſlands.

iſlands reſpectively; the occaſions of paſſing which were as follows.

An account of the granting of this duty by the aſſembly of Barbadoes.

The iſland of Barbadoes in the Weſt-Indies had been granted away by letters patent under the great ſeal of England, (while it was yet uncultivated and unpeopled, except by its few original inhabitants, the wild Caribbees,) by king Charles I. in the peaceable part of his reign, (or before the great civil war in England,) to the earl of Carliſle of that time, to be held and enjoyed by him, the ſaid earl of Carliſle, and his heirs and aſſigns for ever, of the king of England, and his heirs and ſucceſſors; much in the ſame manner as the country of Maryland in North-America was granted by the ſame king Charles in the year 1632 to the lord Baltimore, and his heirs and aſſigns, and Penſylvania was granted by king Charles II. in the year 1682 to William Penn, the Quaker, and his heirs and aſſigns. And the ſaid earl of Carliſle was impowered, in the ſaid royal grant, to under-grant parcels of land in the ſaid iſland to other perſons, to be holden by them and their heirs and aſſigns for ever, of the ſaid earl, his heirs and aſſigns; as was the caſe with the

ſaid

ſaid lord Baltimore and William Penn, who had the like power given them, in their reſpective royal grants, to make under-grants of parcels of the land that had been granted to themſelves, to other perſons and their heirs, to be holden of themſelves. By virtue of this power of under-granting the lands of Barbadoes, the ſaid earl of Carliſle did grant away divers parcels of land in that iſland to ſuch perſons as were willing to undertake the cultivation of them, reſerving to himſelf ſuch rents and payments as he thought proper; of which a payment of forty pounds of cotton per head ſeems to have been the moſt important. But ſome of theſe grants were afterwards loſt; and others of them were improperly expreſſed, through the ignorance of the perſons who were employed to draw them, ſo as often to want legal and ſufficient words to create eſtates of inheritance to the grantees and their heirs: and others of them were never recorded in the publick records of the iſland, as they ought to have been: ſo that the titles of the perſons who held lands in the ſaid iſlands by virtue of theſe grants became, in the courſe of a few years, extreamly dubious. And other perſons,

during the confuſed times of the civil war, (which came on a few years after the making of this grant to the earl of Carliſle,) occupied and cultivated lands in the iſland without ever having had any grants of them at all from the earl of Carliſle, or his heirs, or aſſigns. This created a good deal of confuſion and uneaſineſs on the iſland about the year 1660, or 1661, ſoon after king Charles II. had been reſtored to the throne of his anceſtors; as a remedy to which the following courſe was taken. The king bought in, of the heirs of the ſaid earl of Carliſle, all the rights that had been granted to the ſaid earl in the ſaid iſland by the aforeſaid patent; and, being thus inveſted with the property of the ſaid iſland, (ſo as to be the immediate upper lord, of whom all the lands in it were holden,) as well as the right of governing it, he gave a commiſſion under the great ſeal of England in the month of June in the year 1663, that is, about three years after his reſtoration, to Francis, lord Willoughby of Parham, to be captain-general and governour in chief of Barbadoes and of all the Caribbee iſlands, with full power and authority to confirm, and aſſure to the inhabitants of the ſame, and their heirs

heirs for ever, all the lands and tenements, to which they had a reaſonable claim from poſſeſſion, or otherwiſe, under his Majeſty's great ſeal appointed for Barbadoes and the reſt of the Caribbee iſlands, notwithſtanding the legal imperfection of their titles to them.

In purſuance of this power, granted to the ſaid lord Willoughby by his ſaid commiſſion, that nobleman conſulted with the council and aſſembly of the ſaid iſland of Barbadoes, how to remedy the evils ariſing from the preſent imperfect ſtate of the titles of the inhabitants to their lands, and likewiſe from the tenures and ſervices by which thoſe lands were held: and it was agreed amongſt them; in the firſt place, that all the lands of which they were then in quiet poſſeſſion, ſhould be holden by them for the future of the Crown, to them and their heirs for ever, in the ſame manner as if they had had regular and proper grants, duly recorded in the proper offices, to ſhew for them; and, in the ſecond place, it was agreed that the aforeſaid payment of forty pounds of cotton per head, (which had been found to be a heavy tax upon the firſt ſettlers there,)

ſhould be aboliſhed; and that all other rents and payments which had been reſerved by the earl of Carliſle, or under the authority of his patent, ſhould alſo be aboliſhed, and all arrears of them remitted to the inhabitants; and that their lands ſhould for the future be holden of the Crown without any other rent than one ear of Indian corn to be paid every year, for every parcel of land holden in the ſaid iſland, at Michaelmas, if then lawfully demanded; and in the third place it was agreed, that a duty of four and a half per cent. ſhould be paid to the king, and his heirs and ſucceſſors for ever, upon all dead commodities of the growth and produce of the ſaid iſland of Barbadoes that ſhould be ſhipped off the ſame.

And theſe reſolutions were drawn up into the form of an act of aſſembly of the iſland of Barbadoes, and paſſed by the ſaid lord Willoughby, the governour, and the council and aſſembly of the ſaid iſland in the month of September, 1663.

The clauſe of the act of the aſſembly of Barbadoes by which this duty of

The clauſe in this act of aſſembly which grants the aforeſaid duty of four and a half per cent. upon all dead commodities ſhipped off from the iſland,

four and a half per cent. was granted to the Crown.

iſland; is in theſe words. " *And, foraſmuch as nothing conduceth more to the peace and proſperity of any place, and the protection of every ſingle perſon therein, than that the publick revenue thereof may be in ſome meaſure proportioned to the publick charges and expences; and alſo well weighing the great charges that there muſt be of neceſſity in the maintaining the honour and dignity of his Majeſty's authority here; the publick meeting of the ſeſſions; the often attendance of the council; the reparation of the forts; the building a ſeſſions houſe and a priſon; and all other publick charges incumbent on the government: WE DO, in conſideration thereof, GIVE and GRANT unto his Majeſty, his heirs and ſucceſſors, for ever, and do moſt humbly deſire your Excellency to accept theſe our grants: And we humbly pray your Excellency that it may be enacted: AND BE IT ENACTED, by his Excellency, Francis, Lord Willoughby, of Parham, captain general and chief governour of this iſland of Barbadoes and all other the Caribbee iſlands, and by and with the conſent of the council and the gentlemen of the aſſembly, repreſentatives of this iſland, and by authority of the ſame, That an impoſt, or cuſtom, be, from and after the publication hereof,*

raiſed

raiſed upon the native commodities of this iſland, after the proportions and in manner and form as is hereafter ſet down and appointed, that is to ſay, upon all dead commodities of the growth or produce of this iſland, that ſhall be ſhipped off the ſame, ſhall be paid to our Sovereign Lord the King, his heirs and ſucceſſors for ever, four and a half in ſpecie for every five ſcore."

Of the manner of paſſing bills for granting money to the crown both in Barbadoes and in Great-Britain.

By this clauſe you may obſerve the form of acts of aſſembly for impoſing taxes on the people of this iſland to be the ſame as, in the former part of our converſation, I informed you was uſed for the ſame purpoſe in the Britiſh parliament, to wit, that of a gift and grant made to the king from the repreſentatives of the people, in behalf of the people, and conſented to by the council of the province, and accepted by the governour in behalf of the king, and afterwards enacted as a law, or ordained by words of an imperative and legiſlative import, by the joint authority of the ſaid governour, council, and aſſembly, in conſequence of ſuch previous grant of the aſſembly, conſent of the council, and acceptance of the governour. This is not an inſignificant piece of form: for

it

it ſhews that all taxes are, by the conſtitution of the Britiſh government in that iſland of Barbadoes, to be conſidered as the free gifts of the people, and are therefore to begin in the aſſembly of their repreſentatives, and ought not to be firſt propoſed to them either by the governour or the council. The ſame obſervation is true of the Britiſh Houſe of Commons. That great aſſembly of the repreſentatives of the people of Great-Britain claims and exerciſes the ſame right of originating all bills for impoſing new taxes on the ſubjects of the Crown, or whereby any money can be drawn from them in any collateral way, however indirect, and makes it a conſtant rule to reject every bill for any ſuch purpoſe, (however reaſonable in itſelf, or expedient to the welfare of the kingdom, it may happen to be,) that is ſent down to them from the Houſe of Lords for their conſent. Nay, they carry this privilege ſtill further. For, when they have themſelves prepared a tax-bill, and ſent it to the Houſe of Lords for their conſent, they will not permit the Lords to make the ſmalleſt alteration in it, not even though the alteration ſhould tend to leſſen, inſtead of adding to, the propoſed tax,

Such bills ought to take their riſe in the Houſe of Commons.

nor

nor even though it ſhould no way affect the tax, but be merely a change in ſome of the leſs material words of the bill: and, if the Lords attempt to make any alteration in a bill of this kind, it is ſure to be rejected by the Commons when it is ſent down to them by the Lords for their conſent to the alteration. So that the Houſe of Lords can no farther interfere with reſpect to the paſſing of tax-bills than ſimply to conſent to them or to reject them. Such is the jealouſy of the Houſe of Commons with reſpect to this important privilege. And yet, moſt ſtrange as it muſt ſeem, it is nevertheleſs true that in the caſe of the Quebeck-bill they departed from this moſt ſacred rule. So great was the infatuation that prevailed at the time of paſſing that obnoxious act!

This rule was departed from in the caſe of the Quebeck-act.

FRENCHMAN.

That is indeed a ſtrange event. I ſhould have thought that the Britiſh Houſe of Commons would never have given up ſo favourite and important a privilege, even for the ſake of the moſt beneficial act that could be propoſed to them, and much leſs for an act of ſo dangerous, or, (to ſay the beſt of it,) of ſo doubtful

ful a tendency as the Quebeck-act. I beg you would therefore inform me in what manner this privilege of the Houſe of Commons was given up, or departed from, in the paſſing of that unhappy act.

ENGLISHMAN.

It was in truth departed from, but not formally given up: for the majority in the Houſe of Commons pretended that it was not affected by the Quebeck-bill, tho' no tolerable anſwer was ever given to the objections made to the bill upon this ground by Mr. Charles Fox, which were ſtated and urged by him with all that clearneſs and ſtrength of reaſoning for which he is ſo eminently diſtinguiſhed. The whole proceeding was as follows. The Quebeck-bill (for what reaſon, I never could learn,) was begun in the Houſe of Lords, where it is ſaid to have been oppoſed by only a few of the temporal lords, but not at all by the biſhops, notwithſtanding it eſtabliſhed popery throughout the province of Quebeck, by giving the prieſts a legal right to their tythes, and at the ſame time extended the province to ſo great a degree as to comprehend more than half the king's dominions in America,

The Quebeck-bill begun in the Houſe of Lords.

It paſſed that houſe without any oppoſition from the biſhops, notwithſtanding it eſtabliſhed popery throughout half America.

throughout all which extent of country, (hitherto, indeed, uncultivated and unpeopled, but very rich and fertile and likely hereafter to become exceeding populous) the popiſh religion was conſequently to become gradually eſtabliſhed. When it had paſſed the Houſe of Lords, it was ſent down to the Commons for their conſent. In that houſe it met with a different treatment. Many very ſtrong objections were very ſtrongly urged againſt it by ſeveral gentlemen of great abilities. Some of thoſe gentlemen objected to the *eſtabliſhment* of popery by it, when all that was neceſſary to be done, either for the performance of the capitulation with Sir Jeffery Amherſt in September, 1760, or of the treaty of peace in February, 1763, was to *tolerate* it, or (in the words of the capitulation itſelf,) *to permit the free exerciſe of the Catholick, Apoſtolick, and Roman religion to ſubſiſt intire, ſo that all ranks and conditions of people in the towns and countries, places, and diſtant poſts, might continue to aſſemble in the churches and to frequent the ſacraments, as heretofore, without being moleſted in any manner, directly or indirectly*, or, in the words of the 4th article of the treaty of peace, (in which this province is ceded to the crown of

It met with conſiderable oppoſition in the Houſe of Commons.

A toleration only, not an eſtabliſhment, of the Roman-Catholick mode of divine worſhip was promiſed to the Canadians by the capitulation in September, 1760, and the treaty of peace in February, 1763.

of Great-Britain,) *to permit his Majeſty's new Roman-Catholick ſubjects to profeſs the worſhip of their religion according to the rites of the Romiſh church, as far as the laws of Great-Britain would permit.*

Now, to ſhew that neither of theſe ſtipulations had the leaſt view to any thing more than a mere toleration of the Roman-Catholick mode of divine worſhip, will make a remark or two on each of them. As to the foregoing words of the capitulation, they are as clear and determinate as words can well be, for the purpoſe of expreſſing a mere toleration of the modes of divine worſhip preſcribed by the Roman-Catholick religion, or an exemption from the Engliſh penal laws, which reſtrain Roman-Catholick prieſts from ſaying maſs and performing the other offices of their religion, and Roman-Catholick laymen from aſſembling together to hear maſs and receive the ſacraments of the Church of Rome, and which, (it was apprehended by the Marquis de Vaudreüil, the French general and governour of Canada, who demanded this capitulation of general Amherſt,) might have been introduced, amongſt the other

Of the capitulation in 1760.

laws of England, into this province upon its ſurrender to the Britiſh arms, if no ſuch article had been inſerted in the capitulation to protect the Canadians againſt them. Nor do I think it is eaſy to make a more exact and proper definition of the word *toleration* than is contained in thoſe words, to wit, *that all ranks of people might aſſemble in the churches, and frequent the ſacraments, without any moleſtation whatſoever.* But they certainly have not the leaſt alluſion to a continuance of the compulſive, or legal, obligation on the laymen of Canada to pay the prieſts their tythes and other dues, or, in other words, to *the eſtabliſhment* of the Roman-Catholick religion.——Not but that the Marquis de Vaudreüil was deſirous of obtaining even a continuance of the eſtabliſhment of that religion. But he made it the ſubject of a diſtinct demand, which was expreſſed in theſe words, " *And that the people ſhould be obliged, by the Engliſh government, to pay to the prieſts the tythes and all the taxes they were uſed to pay under the government of his Moſt Chriſtian Majeſty;*" which come immediately after the words above recited. But this demand was as diſtinctly rejected by the wiſe and cautious Engliſh general,

The eſtabliſhment of the popiſh religion was demanded by the French general, but refuſed by general Amherſt.

ral, Sir Jeffery Amherſt, who anſwered this and the former demand of a toleration in theſe words; " *Granted, as to the free exerciſe of their religion. The obligation of paying the tythes to the prieſts will depend on the king's pleaſure.*" The latter part of this anſwer has been generally underſtood in Canada (as you know ſtill better than I do,) as a declaration that the people of this province ſhould not be obliged by the Engliſh government to pay the prieſts their tythes and other accuſtomed dues, until his Majeſty's pleaſure ſhould be declared upon the ſubject; or, in other words, as a ſuſpenſion of the legal, or compulſive, right of the prieſts to demand the ſaid tythes and dues, until ſuch declaration of his Majeſty's pleaſure; which royal pleaſure was never declared in favour of the payment of the tythes until his Majeſty gave his aſſent to this Quebeck-act: inſomuch that, in the whole ſpace of eleven years, that elapſed between the eſtabliſhment of the civil government of this province in 1764 and the firſt of laſt May, when the ſaid Quebeck-act begun to take place, the prieſts of this province have never preſumed to ſue for their tythes in any of the higher courts of juſtice.

juſtice. I ſay, in any of the higher courts of juſtice; becauſe I have been told that ſome ſuits for tythes have been entertained by a juſtice of the peace, or two, in the diſtrict of Montreal, though the like ſuits have been diſallowed before other juſtices of the peace in the diſtrict of Quebeck. But the civil proceedings before the juſtices of the peace in this province have been too irregular to deſerve any attention.

It is plain therefore that the capitulation of September, 1760, gives the Canadians no ſort of claim to any thing more than a toleration of the modes of divine worſhip preſcribed by the Roman-Catholick religion.

Of the toleration of the worſhip of the Roman-Catholick religion by the treaty of peace in February, 1763.

I am now to examine the words of the treaty of peace, which are, "*that his Majeſty promiſes to permit his new Roman-Catholick ſubjects to profeſs the worſhip of their religion according to the rites of the Romiſh Church, as far as the laws of Great-Britain will permit.*" Now, if theſe latter words, which refer to the laws of England, and which ſeem to be a limitation of the former, were omitted, this article would only amount to a toleration of the Roman-Catholick

Catholick modes of divine worſhip in the province. For what elſe can be the meaning of *a permiſſion to profeſs the worſhip of their religion according to the rites of the Romiſh Church?* Nothing, ſurely, that has the leaſt tendency to an *eſtabliſhment* of the Romiſh religion, or an engagement to uſe the authority of government to compel the people to pay the prieſts their tythes, or other dues, as a reward for teaching that religion, can be inferred from hence, if the words are to be underſtood according to their known and uſual ſignification. But, if we conſider thoſe other words, which refer to the laws of England, as not mere idle words that are totally deſtitute of meaning, but as having ſome reaſonable ſignification, we ſhall find that it is ſtill more difficult, (if at all poſſible to the moſt prejudiced perſon,) to conceive that this article of the treaty of peace was meant for the eſtabliſhment of popery. For, though it might be uncandid and unreaſonable on this occaſion to interpret the words of reference to the laws of England, to wit, "*ſo far as the laws of Great-Britain will permit,*" as if they referred to thoſe penal laws of England which prohibit the hearing and ſaying maſs in England;

Of the reference therein made to the laws of England.

This does not relate to the penal laws of England againſt hearing and ſaying maſs.

land; (becauſe ſuch an interpretation of them would take away the toleration of the Roman-Catholick mode of divine worſhip, which it was the intention of this clauſe of the treaty of peace to ſecure to the Canadians;) yet we muſt, at leaſt, underſtand theſe words to refer to the great ſtatute, of the firſt year of the reign of queen Elizabeth, for eſtabliſhing the ſupremacy of the crown of England in all ſpiritual and eccleſiaſtical matters, and aboliſhing the pretended authority of the pope, or biſhop of Rome, and all other foreign juriſdiction whatſoever, throughout all the dominions of the Crown. For this ſtatute expreſsly declares that the ſaid foreign juriſdiction ſhall be for ever excluded not only from England and Wales, and the other dominions then belonging to the Crown, but likewiſe from all the dominions *that hereafter ſhould belong to it.* This therefore ſeems to be a grand, fundamental, ſtatute, that was intended to relate to all the dependant dominions of the Crown, as well as to the kingdom of England itſelf; and to all the future acquiſitions of the Crown, as well as to the territories that were at that time ſubject to it. If therefore thoſe words of the treaty of peace, which refer

But to the great ſtatute of the 1ſt of queen Elizabeth, for eſtabliſhing the ſupremacy of the Crown, and aboliſhing the pope's, and all other foreign juriſdiction in ſpiritual matters.

to

to the permiſſion of the laws of England, are to be ſuppoſed to have any meaning at all, they muſt refer to this important ſtatute; which muſt therefore be conſidered as being of force in this province. And, indeed, this ſtatute is referred to in the Quebeck-act itſelf, as having a relation to this province. Now by this ſtatute all perſons who held places of truſt and profit under the Crown, and all biſhops and prieſts, or miniſters of religion, who held any eccleſiaſtical benefices, were obliged to take the oath of ſupremacy, that is, an oath declaring the king, or queen, of England to be the ſupream head of the Church of England, and abjuring the authority of the pope, or biſhop of Rome, and all other foreign juriſdiction whatſoever in ſpiritual matters. This oath was afterwards changed for another by a ſtatute paſſed in the firſt year of the reign of king William and queen Mary, out of regard (as it ſhould ſeem,) to the ſcruples of ſome pious and well-meaning proteſtants, who (though willing enough to abjure the authority of the pope, and all other foreign juriſdiction, in ſpiritual matters) yet did not think it right to acknowledge the king, or any perſon but Jeſus Chriſt himſelf, to be the ſupreme head of the Church. In compliance

This ſtatute is acknowledged in the Quebeck-act itſelf to have a relation to the province of Quebeck.

By this ſtatute no prieſt could hold a benefice without taking the oath of ſupremacy.

This oath was afterwards changed into an oath of abjuration of the pope's authority.

with theſe perſons, a new oath was preſcribed to be taken, which contained all the words of abjuration of the pope's authority and all other foreign juriſdiction, which had been in the former oath, but was without the poſitive words in the former oath which declared the king, or queen, of England to be the ſupream head of the Church. And this new oath was directed to be taken by all thoſe perſons who would otherwiſe have been obliged, by the ſtatute of queen Elizabeth, to take the former oath. This new oath may be properly called *the oath of abjuration of the pope's authority.*

Therefore, after the treaty of peace in 1763, no prieſt could legally hold a benefice without taking the oath of abjuration of the pope's authority.

It follows therefore that, after the ſaid treaty of peace, no prieſt could become legally poſſeſſed of an eccleſiaſtical benefice in this province, ſo as to have a legal right to the uſe of his parſonage-houſe and to the glebe-land thereto belonging, and to be legally intitled to demand his tythes and other dues of his pariſhioners, without taking this oath of abjuration of the pope's authority: and this, it is well known, is what none of the Roman-Catholick prieſts in this province have done, or can do while they continue Roman-Catholicks, the ſaid oath being a renunciation of the moſt eſſential article

of

of their religion, and that from which the very name of it is derived, the ſupremacy of the biſhop of Rome over all other biſhops. Conſequently none of the Romiſh prieſts in this province could, after the treaty of peace in 1763, have a legal right to demand their tythes of their pariſhioners.

I may even add, that this would have been the caſe, even if the king had, in the year 1761, or in any other part of the interval of time between the capitulation in Sept^r. 1760, and the treaty of peace in Feb. 1763, declared it to be his pleaſure, that the Engliſh government ſhould compel the people of Canada to pay to the prieſts their tythes and other former dues, in purſuance of the power of making ſuch a declaration, which had been reſerved to his Majeſty by general Amherſt. For, as the capitulation was only a temporary proviſion, calculated to aſcertain the condition of the Canadians during the interval of time that ſhould elapſe between the ſurrender of the country to the Britiſh arms and the definitive treaty of peace between the two crowns, by which it would be either reſtored to the French king or finally ceded to

This would have been the caſe even if the king had, in the interval of time between the capitulation and the treaty of peace, obliged the Canadians to pay the prieſts their tythes.

the crown of Great-Britain, it would have been ſuperſeded by that more important inſtrument, the treaty of peace, which was made by the two kings themſelves, and with an expreſs deſign to fix the permanent future condition of the inhabitants of the country ceded to Great-Britain, ſo far as the crown of France thought fit to interfere in their behalf. And, conſequently, all the ſtipulations of the capitulation, together with the king's ſubſequent declaration concerning one of them, would have become null and void of courſe at the concluſion of the treaty of peace, unleſs they had been particularly recited and ratified in it; and all matters relative to the condition of the Canadians in points not provided for and ſettled by the treaty of peace, (which was the permanent and definitive agreement between the two crowns upon the ſubject,) would have been open to be ſettled according to the diſcretion of the new legiſlature (whether that legiſlature were the king of Great-Britain alone, or the king and parliament conjointly,) to which Canada was then become ſubject. And, if this would be true of all the ſtipulations of the capitulation that were not expreſsly confirmed by the treaty

of

of peace, it muſt, *à fortiori*, be true of ſuch of them as were contrary to the articles of that treaty; which would have been the caſe with the ſtipulation concerning the payment of tythes to the prieſts, if the king had declared his pleaſure in favour of ſuch payment, becauſe ſuch a proviſion for the payment of the tythes to the Romiſh prieſts would have been contrary to the ſtatute of the 1ſt of Elizabeth, which was the law of England referred to by the treaty of peace. But this is going into an unneceſſary train of reaſoning, becauſe the king never did declare it to be his pleaſure that the Engliſh government ſhould compel the people of Canada to pay the prieſts their tythes, till he gave his aſſent to the Quebeck-bill.

A ſhort view of the obligations of the Britiſh nation to tolerate the Roman-Catholick religion, ariſing from the capitulation and the treaty of peace.

In ſhort, the French general in the capitulation aſked firſt for a toleration of the Roman-Catholick religion, and ſecondly for an eſtabliſhment of it by giving the prieſts a legal right to their tythes. And the Engliſh general, Sir Jeffery Amherſt, granted the firſt requeſt, and refuſed the ſecond, but reſerved to the king a power of granting it, which the king did not make uſe of. And in the treaty of peace no eſtabliſhment

eſtabliſhment of the Roman-Catholick religion is hinted at; but mention is made only of a toleration of it, or a permiſſion to exerciſe the worſhip of it; and this is agreed to by the king of Great-Britain, but with a reference to the laws of England as the meaſure of it; and theſe words, the *laws of England*, muſt, in the moſt gentle and moderate interpretation of them, at leaſt include the great ſtatute of Elizabeth for aboliſhing the pope's juriſdiction throughout all the dominions of the Crown, which ſtatute permits no prieſt to hold an eccleſiaſtical benefice and have a legal right to tythes without abjuring the pope's authority. Surely, then, nothing can be plainer than that neither of theſe inſtruments gives the Roman-Catholick prieſts of Canada the leaſt ſhadow of a legal right to demand the tythes of their pariſhioners: nor was the Britiſh nation in the ſmalleſt degree bound by any ties of national honour and publick faith (as ſome people have pretended,) to give the prieſts of this province ſuch a legal right, in order to the full and fair performance of either the letter or the ſpirit of either of thoſe inſtruments. An ample toleration of the exerciſe of the worſhip of the Romiſh

Romiſh religion was all that was neceſſary to ſatisfy the claims founded on thoſe inſtruments: and it was all that the body of the Canadian people themſelves deſired; they being rather pleaſed than diſpleaſed, (as you ſome time ago obſerved to me,) with the ſuſpenſion of the obligation, which they had formerly lain under, to pay their prieſts their tythes. And ſuch a toleration, (even the moſt ample that imagination can conceive, and ſuch an one as ſtrangers were apt to miſtake for an eſtabliſhment,) they have actually enjoyed, without the ſmalleſt interruption, ever ſince the capitulation in 1760, to the firſt day of the month of May laſt paſt, to their own great aſtoniſhment and ſatisfaction.

A mere toleration of the Romiſh religion, without a revival of the legal obligation on the people to pay the prieſts their tythes, was all that was neceſſary for the ſatisfaction of the Canadians.

FRENCHMAN.

Methinks you have made rather a tedious digreſſion to prove what was extreamly plain, and what I ſhould have ſuppoſed no body could doubt of, "that our prieſts had no legal right to ſue for their tythes in the interval between the capitulation in 1760 and the operation of the late Quebeck-act." It would be ſtrange indeed if they ſhould ground ſuch a right on

the

the capitulation, when general Amherſt had expreſsly refuſed to grant it. And, as to the treaty of peace, it only ſpeaks of a toleration, or permiſſion to exerciſe the worſhip of our religion, even if we intirely omit thoſe odd words of general reference to the laws of England, which certainly do not enlarge the indulgence. So that it is the idleſt thing in the world to pretend to ground a legal right of the prieſts of Canada to their tythes upon either of theſe inſtruments. I beg you would therefore reſume your account of the debate in the Houſe of Commons upon the Quebeck-bill, and Mr. Fox's objections to it upon the ground of the favourite privilege claimed by the Houſe of Commons to originate all money-bills.

ENGLISHMAN.

An account of Mr. Charles Fox's objection to the Quebeck-bill, grounded on the privilege of the Houſe of Commons to originate all money-bills.

The digreſſion I have made (though, I confeſs, it has been tedious,) is not wholly without its uſe with reſpect to the ſubject you are now inquiring after. For, if the Roman-Catholick prieſts of this province had no legal right to their tythes in the interval between the capitulation of 1760 and the Quebeck-act, that act, which re-eſtabliſhed their antient right to them, was undoubtedly

undoubtedly a money-act: for it compelled his Majesty's Canadian subjects, that professed the Roman-Catholick religion, to pay to the priests of their respective parishes every 26th bushel of the corn that grew upon their lands, by way of tythes, together with certain other taxes, (some of which, I presume, were in money,) which tythes and taxes they were not liable to pay them before the passing of the said act. Now you must observe that corn, or any other commodity worth money, which is ordered to be paid by publick authority, is, in the estimation of the House of Commons, as much a tax as money, and as much the object of this privilege. Consequently this Quebeck-bill was most clearly a tax-bill, or money-bill, and of a very heavy kind. And therefore, according to this privilege of the House of Commons, it ought to have begun in that house, and not, as in fact it had done, in the House of Lords. Now this was Mr. Fox's objection to it. "The privilege "of this house," said he, "to which it owes "all its importance, is invaded by the Lords. "They have originated and sent us down a "money-bill. This alone is sufficient to make "it our duty to reject it, without troubling

Mr. Fox's objection.

" ourſelves to diſcuſs its merits. If its tendency
" were as beneficial as it ſeems to be pernicious,
" it would ſtill deſerve to be rejected upon this
" ſingle account. The clauſe which makes it
The clauſe in the Quebeck act relating to the profeſſion of the Roman-Catholick religion.
" a tax-bill is in theſe words. "' *And for the*
" *more perfect ſecurity and eaſe of the minds of*
" *the inhabitants of the ſaid province, it is hereby*
" *declared, that his Majeſty's ſubjects, profeſſing*
" *the religion of the Church of Rome, of and in*
" *the ſaid province of Quebeck, may have, hold,*
" *and enjoy the free exerciſe of the religion of the*
" *Church of Rome, ſubject to the king's ſupre-*
" *macy, declared and eſtabliſhed by an act made*
" *in the firſt year of the reign of queen Elizabeth,*
" *over all the dominions and countries which then*
" *did, or thereafter ſhould, belong to the imperial*
The branch which revives the legal obligation on the Roman Catholick inhabitants of Canada to pay the prieſts their tythes.
" *crown of this realm; and that the clergy of the*
" *ſaid church may hold, receive, and enjoy their*
" *accuſtomed dues and rights, with reſpect to*
" *ſuch perſons only as ſhall profeſs the ſaid reli-*
" *gion.*"' By the laſt words of this clauſe the
" legal right of the Romiſh clergy to demand
" and ſue for their tythes and other dues is
" again eſtabliſhed, after having been ſuſpended,
" or aboliſhed, ever ſince the conqueſt of the
" country by the Britiſh arms in September,

" 1760,

" 1760, to the preſent time, that is, for almoſt " fourteen years. This therefore is impoſing a " tax upon ſuch of his Majeſty's Canadian ſub- " jects as profeſs the Roman-Catholick reli- " gion, for the ſupport of the prieſts of that " religion, which (however reaſonable ſome " people may think it to grant the prieſts ſuch " legal maintenance,) makes this bill a tax- " bill, or money-bill, and conſequently ſuch " an one as ought not to have taken its riſe in " the Houſe of Lords. It is therefore our " duty, (as it now comes to us from the Lords,) " without farther trouble or debate upon the " merits of its ſeveral moſt important provi- " ſions, to reject it. To deliberate about our " conduct upon ſuch an occaſion would be " waſting our time to no purpoſe, and weaken- " ing our moſt valuable privilege." This was the purport of Mr. Fox's ſpeech on that occa- ſion; and the members of the Houſe of Com- mons ſeemed to be wonderfully ſtruck with it, as none of them had conſidered the bill in that light before.

FRENCHMAN.

Pray, did any body attempt to anſwer this ob- jection? For to me it ſeems abſolutely unanſwer- able?

ENGLISHMAN.

And ſo it does to me at this hour, as well as when I was firſt told of it. And all the anſwers that have ever been attempted to be given to it appear to me to be very inſufficient. One perſon ſaid that theſe tythes were already due to the Romiſh prieſts without the help of the Quebeck-bill, and that the prieſts legal right to them had never been aboliſhed, or ſuſpended, and conſequently that this clauſe in the Quebeck-bill was not a revival, or re-eſtabliſhment, of this right, but only a confirmation of it. This anſwer will not do for you and me, who are, both of us, well ſatisfied of the falſhood of the propoſition on which it is built, namely, that the legal right of the prieſts to their tythes has never been ſuſpended or aboliſhed: but, if this had been true, I conceive it would have furniſhed no anſwer to the objection made by Mr. Fox; ſince the confirmation of a doubtful tax, (which already exiſts, but upon ſo precarious a ground as to need a confirmation,) is an act of the ſame nature as the impoſition of a new tax, or the re-eſtabliſhment of an old one, that has been confeſſedly aboliſhed; and conſequently,

An attempt to anſwer the objection of Mr. Fox.

Inſufficiency of this anſwer.

conſequently, a bill for that purpoſe ought equally to take its riſe in the Houſe of Commons with a bill for impoſing a new tax, agreeably to the privilege of that houſe, before mentioned, to originate all tax-bills, or money-bills. This anſwer, therefore, to Mr. Fox's objection was doubly defective: being founded on a falſe fact; and not affording a ground for the concluſion drawn from it, if the fact, on which it was founded, had been true.

Another perſon ſaid that tythes were not a tax, but a particular ſpecies of property iſſuing out of the lands of other men; and that they were not due upon the ſame ground as taxes are, that is, by virtue of publick grants of the people, or laws of the ſtate commanding them to be paid for the maintenance of the clergy, but upon quite other grounds: and conſequently that the Quebeck-bill was not a tax-bill and not within the reach of Mr. Fox's objection.——What were the grounds upon which the gentleman, who made this anſwer to Mr. Fox's objection, ſuppoſed tythes to be due to the Romiſh prieſts of Canada, I do not know. But, if he meant that they were due *by divine right*, without the intervention

Another attempt to anſwer the ſame objection.

Inſufficiency of this anſwer.

intervention of the French king's legiſlative power, he was intirely miſtaken. For they were impoſed by an edict of Lewis XIV. in the year 1663, at the rate of the thirteenth ſheaf of corn; before which edict no tythes at all were paid by the land-holders of Canada: and afterwards this tythe was reduced from the thirteenth ſheaf of corn to the twenty-ſixth buſhel of corn, (ready threſhed out for the uſe of the prieſt,) by a temporary ordinance of the ſuperiour council of Quebeck made in the year 1667, which was afterwards confirmed and made perpetual by a royal edict of Lewis XIV. in the year 1679. So that nothing can be more certain than that tythes were a publick tax in Canada, impoſed by the legiſlative power of the king of France; whatever may be the ground on which they may have been ſuppoſed to have been paid in other countries. Therefore this anſwer to Mr. Fox's objection was founded on a falſe ſuppoſition, as well as the former. And the like capital defects were to be found, as I have been aſſured, in all the other vain attempts to anſwer him. But, as he is a perſon of great quickneſs of parts and ingenuity as well as a very clear head and powerful talent

for

for reaſoning, he quickly altered the ſhape of his objection, and formed it in ſuch a manner that;——though it had been true (as his adverſaries alledged in anſwer to him,) that the Romiſh prieſts of this province had already had a legal right to the tythes without the help of the Quebeck-bill; and, though the confirming a tax already in being ſhould not have been enough to make the bill, in which ſuch confirmation was contained, be conſidered as a tax-bill, or money-bill;——yet ſtill the ſaid Quebeck-bill ought to have been conſidered as a tax-bill on account of another branch of the clauſe above-recited, namely, that which provides that the prieſts ſhall have a legal right to their tythes from *only* their Roman-Catholick pariſhioners. " For this," ſaid he, " is an exemption of his Majeſty's proteſtant ſubjects " in that province from the payment of tythes, " which, as the friends of this bill affirm, " were legally due to their reſpective pariſh-" prieſts. For ſuch was the law of the country " in the time of the French government. All " the land-holders in every pariſh, proteſtants, " (if there were any,) as well as papiſts, were " obliged to pay the prieſt his tythes. If there-

Another objection made by Mr. Fox to the Quebeck-bill, grounded on the ſame privilege of the houſe of Commons as the former.

" fore

" fore there has been no change made in the
" law upon this ſubject by the capitulation and
" treaty of peace and the ſubſequent introduc-
" tion of the Engliſh laws and government, as
" is now pretended, the proteſtants in Canada
" muſt at this time be under a legal obligation
" to pay the prieſts their tythes: and from this
" legal obligation the proviſion in this bill which
" I have juſt now mentioned, and which is
" expreſſed in theſe words, "' *with reſpect to*
" *ſuch perſons only as ſhall profeſs the ſaid reli-*
" *gion*,"' is intended to exempt them. If
" therefore this bill is not intended, by this
" clauſe about the tythes, to impoſe a new tax
" on his Majeſty's Roman-Catholick ſubjects
" in Canada, but only to confirm and continue
" an old one, that is already legally eſtabliſhed,
" as the patrons of it contend, it muſt, at leaſt,
" be allowed that it is intended to exempt his
" Majeſty's proteſtant ſubjects in that province
" from the payment of the ſaid old tax, to
" which they are as yet legally liable. Now a
" bill to *take off* a tax is as much *a money-bill*,
" in the conſideration of this houſe, as a bill
" to *lay one on*, and, according to our invariable
" practice upon theſe occaſions, as much within

" the

" the limits of our privilege of originating " money-bills." In this view therefore, as well " as in the former, this bill ought to have begun " in this houſe, and not in the houſe of Lords; " and, as it has, (by ſome happy miſmanage- " ment in thoſe perſons who wiſh it to take " place,) been firſt brought into the Houſe of " Lords, and is now ſent down to us from " thence, we have nothing to do but, without " further conſideration of the contents of it, " to *reject* it."

FRENCHMAN.

This new manner of ſtating his objection to the Quebeck-bill, which was grounded on the repreſentation made of the law concerning the tythes in Canada by his adverſaries themſelves, was extreamly ingenious, and, in my opinion, very juſt, upon a ſuppoſition that the Houſe of Commons conſider a bill for *taking off a tax* as being as much an object of their peculiar privilege as a bill for *laying one on*; which, I take it for granted, is a clear point, as you ſeem to make no doubt about it. Nor can I imagine what Mr. Fox's adverſaries could have to ſay in anſwer to an objection which their own falſe ſtate

of the caſe about the law concerning tythes had laid ſo clear a ground for. Pray, what could they ſay upon this occaſion?

ENGLISHMAN.

Truly, (from all that I could ever learn,) nothing at all, except, perhaps, a bold repetition of the former ſtrange aſſertion that the tythes in Canada were not a tax. But they had recourſe to that favourite and powerful argument of the majorities in all aſſemblies, by which, upon occaſion, two and two may be *declared* to be equal to five, (though they never can be made ſo,) the argument of numbers: they voted that the Quebeck-bill was *not* a money-bill, and conſequently not within the privilege of the houſe before-deſcribed. And ſo the merits of the bill were entered upon, and, after ſome amendments made in it, it was ſent back to the Houſe of Lords, and there paſſed with the amendments, and ſoon after received the royal aſſent.

Mr. Fox's objections were overruled, and the Quebeck-bill declared not to be a money-bill.

FRENCHMAN.

This account gives me great uneaſineſs. For it ſhews how extremely deſirous the miniſters of ſtate in England were of getting this unhappy bill

A remark thereon.

bill paſſed, ſince they would thus let this important privilege of the Houſe of Commons be endangered and wounded by means of it, rather than put it off to another ſeſſion of parliament. I ſee plainly that they muſt have been extreamly ſanguine in their hopes that our prieſts, (when they had thus been bribed into their ſervice by a reſtoration of their legal right to their tythes,) would have been wonderfully zealous and ſucceſsful in their endeavours to preach up, amongſt us poor Canadians, the duty and merit of a cruſade againſt our preſbyterian neighbours of Boſton. But I believe that by this time, or in a very ſhort time hence, they will perceive the errour they have been led into, and will find that their favourite act (however agreeable it may be to our prieſts and ſome of our nobleſſe,) has diſguſted the bulk of the Canadian people, and made them more averſe than ever to engage in ſo odious a ſervice. However, we will now, if you pleaſe, have done with this melancholy ſubject, and return to the conſideration of the four and a half per cent. duty, that, you ſaid, was paid to the Crown on dead commodities exported from ſome of the Weſt-India iſlands.

ENGLISHMAN.

With all my heart. But you will remember that our long digreſſion concerning Mr. Fox's objections to the Quebeck-bill was in conſequence of your own requeſt. However, we will now return back to the act of the aſſembly of the iſland of Barbadoes, by which the ſaid four and a half per cent. duty was granted to the Crown. For that, I think, was the ſubject of our converſation when this long digreſſion begun.

The 4½ per cent. duty in Barbadoes was granted by the aſſembly of that iſland for the purpoſe of maintaining the king's authority in that iſland.

Now you may obſerve that in the preamble to this grant it is ſtated "*that nothing conduceth more to the peace and proſperity of any place, and the protection of every ſingle perſon therein, than that the publick revenue may be in ſome meaſure proportioned to the publick charges and expences; and that the aſſembly had well weighed the great charges that there muſt be of neceſſity in the maintaining the honour and dignity of the king's authority in the ſaid iſland; the publick meeting of the ſeſſions; the often attendance of the council; the reparation of the forts; the building a ſeſſions-houſe and a priſon; and all other publick charges incumbent on the government.*" And then, in conſideration

conſideration thereof, they make the grant of the ſaid duty to the king, his heirs and ſucceſſors for ever. From this preamble it is evident that this duty of four and a half per cent. was given to the Crown in the iſland of Barbadoes, not to be diſpoſed of *in any manner* his Majeſty ſhould think proper, and *in any part of his dominions*, (as, for example, in penſions to perſons reſiding in England,) but *for the purpoſe of maintaining the king's authority in that iſland of Barbadoes*, and particularly to defray the expence of the publick meeting of the ſeſſions, the frequent attendance of the council; the repairing of the forts, and the building a ſeſſions houſe and priſon. And it is, therefore, only in caſe of an overplus of the produce of this duty in the ſaid iſland above what is abundantly ſufficient to defray all theſe and the like expences in the ſaid iſland, that is, to maintain the whole civil and military eſtabliſhment in it, that the Crown is at liberty, (conſiſtently with the intention of the granters of this duty,) to diſpoſe of any part of it out of the ſaid iſland of Barbadoes. And ſuch an overplus, we may well believe, it never will afford. It would therefore be only a reſtoration of this duty to the purpoſes

Therefore it ought not, in point of juſtice, to be applied to any other purpoſes.

A propoſal to appropriate the ſaid duty, by acts of parliament and aſſembly, to the purpoſes for which it was originally granted.

purpoſes for which it was originally granted, if the Crown were to conſent to ſome act of parliament, or act of aſſembly of the iſland of Barbadoes, or other ſufficient act of ſtate, whereby this duty ſhould be more ſtrictly appropriated to the maintenance of the civil government of that iſland, and, (if it produced more than enough for that purpoſe,) to the ſupport of the military eſtabliſhment in the ſame; ſo that, in the firſt place, all the ſalaries of the civil officers of the ſame, namely, of the governour of the iſland, the lieutenant-governour, the judges, and provoſt-marſhals or ſheriffs, and coroners, and other officers of juſtice, and of the receiver-general of the revenue, and the collector and comptroller of the cuſtoms, and the naval officer, and ſearchers, and other officers of the cuſtoms, ſhould be paid out of it; and, ſecondly, that the publick buildings in which the council and aſſembly of the iſland meet to tranſact the publick buſineſs, and the courts of juſtice, and the publick priſons in the iſland, ſhould be kept in good repair out of it; and, thirdly, that all the forts and barracks for ſoldiers on the iſland ſhould be repaired out of it; and, laſtly, (if it was more than ſufficient for all

all theſe purpoſes,) that the churches in the iſland (though the building and repairing of churches uſually belongs to the inhabitants of the pariſhes in which they are ſituated,) ſhould be repaired out of it, and particularly the church in which the aſſembly of the iſland was uſed to attend divine ſervice; and, in ſhort, that no part of the produce of the ſaid duty ſhould be ſpent out of the ſaid iſland. And, in order to prevent any future miſapplication of this money, it ſhould be provided in the ſaid act of parliament, or aſſembly, (which ſhould be paſſed for ſecuring this ſtrict appropriation of the ſaid money to the publick expences of that iſland,) that all grants of penſions, or payments, to be made out of the ſaid money, for the future, for any purpoſes out of the ſaid iſland, or to any perſon reſiding out of the ſaid iſland, or for any purpoſes but thoſe enumerated in the ſaid act, even to a perſon reſident in the ſaid iſland, ſhould be null and void to all intents and purpoſes; and that the ſaid money ſhould be diſpoſed of only by virtue of warrants of the governour and council of the ſaid iſland, (to be ſigned by a majority of the whole council of the ſame,) to the receiver-general of the revenue to pay it to ſome

The produce of it ſhould be iſſued only by virtue of warrants of the governour and council of the ſaid iſland.

ſome of the above-mentioned uſes, and ſhould not be diſpoſed of by the authority of the commiſſioners of the treaſury in England; and that both the Britiſh Houſe of Commons, and the general aſſembly of the freeholders and planters of the ſaid iſland of Barbadoes, ſhould have a right, from time to time, and as often as they ſhould think fit, to inquire into the expenditure of the ſaid money. An act of parliament of this purport, proceeding from a voluntary offer of his Majeſty by a meſſage to the Houſe of Commons to declare his Majeſty's readineſs to conſent to ſuch an appropriation of the ſaid duty, would be a very gracious act of juſtice towards the people of Barbadoes, which, (together with the abolition of the lucrative ſinecure places in the ſaid iſland in the manner above-propoſed,) could not fail of giving great ſatisfaction to the people of the ſaid iſland. And the like meaſure ſhould, in my humble opinion, be adopted with reſpect to all the other Weſt-India iſlands, in which this duty of four and a half per cent., upon goods exported from them, is paid to the Crown.

And both the Britiſh Houſe of Commons and the aſſembly of Barbadoes ſhould have a right to inquire into the expenditure of it.

The ſame thing ſhould be done in the other Weſt-India iſlands in which the ſaid duty of 4½ per cent. is paid.

FRENCH-

FRENCHMAN.

I think it cannot be doubted but that ſuch a meaſure would be exceedingly agreeable to the inhabitants of the Weſt-India iſlands, and fill their minds with a high idea of the juſtice and honour of the Crown; though, as you obſerved ſome time ago, it does not ſeem to be abſolutely neceſſary to the ſettlement of the preſent diſputes between Great-Britain and North-America. But, pray, are moſt of the Weſt-India iſlands ſubject to pay this duty upon the goods they export, or only one or two more beſides Barbadoes? For, I think, you ſaid at firſt that they were not all liable to it, and particularly that Grenada was not ſo.

ENGLISHMAN.

Grenada certainly is not liable to pay this duty, as was determined in that famous cauſe of Campbell and Hall, which I mentioned to you ſome time ago. But the iſlands of Nevis, Antigua, St. Chriſtopher's and Mont-ſerrat, (which are called the Leeward Caribbee iſlands,) are liable to it by virtue of acts of their aſſemblies, (ſimilar to that already mentioned of the aſſembly of

The ſame duty of 4½ per cent is paid in the iſlands of Nevis, Antigua, St. Chriſtopher's, and Monſerrat, by virtue of grants of their aſſemblies.

of Barbadoes,) by which it has been granted in perpetuity to the Crown. The act of aſſembly for the iſland of Nevis, whereby this duty was ſo granted to the Crown, was paſſed in the reign of king Charles II. in the year 1664, that is, four years after the reſtoration, and one year after the act of aſſembly paſſed for the ſame purpoſe in the iſland of Barbadoes. It ſtates much the ſame facts concerning the uncertainty of the titles to land in the ſaid iſland of Nevis as had happened in the iſland of Barbadoes;---- that king Charles I. had granted the ſaid iſland of Nevis to the earl of Carliſle, to whom he had alſo granted the iſland of Barbadoes;---- that king Charles II. had bought in all the rights of the ſaid earl, and that he had appointed Francis, lord Willoughby, of Parham, governour of Barbadoes and the reſt of the Caribbee iſlands, of which this of Nevis is one, with power to grant, confirm, and aſſure lands to the inhabitants of the ſame, and their heirs for ever, under the king's ſeal appointed for Barbadoes and the reſt of the Caribbee iſlands, which at that time were all under the ſame governour, though they had different aſſemblies;—— and that, by virtue of the ſaid earl of Carliſle's patent, divers governours

Of the grant of it by the aſſembly of the iſland of Nevis.

vernours and agents had been ſent over to the ſaid iſland of Nevis, with authority to make grants of land within the ſame to ſuch perſons as they ſhould think fit; and that they had, accordingly, made ſeveral ſuch grants;----and that ſeveral of the perſons, to whom ſuch grants had been made from the earl of Carliſle, had loſt their grants, or warrants, or other evidences for their lands; and that the grants of others had, by reaſon of the ignorance of thoſe times, been unſkilfully drawn, and wanted ſufficient and lawful words to create eſtates of inheritance to the grantees and their heirs; and that others of the ſaid grantees had never recorded their grants and warrants; and that other perſons, who were at that time poſſeſſed of divers parcels of land in the ſaid iſland, could make no proof that they had ever had any grants, or warrants, at all for their ſaid lands, and yet had been a long time in quiet poſſeſſion of the ſame, and had beſtowed great charges on them: and then, without further pre-amble, it makes the grant of the ſaid duty of four and a half per cent. upon all commodities of the growth of the ſaid iſland of Nevis, that ſhall be exported from the ſame, to the king, his heirs and ſucceſſors

for ever. This is the purport of that act of the assembly of the island of Nevis; in which it is worth observing that there is no such clause as that in the act at Barbadoes, declaring "that the publick revenue ought to be, in some measure, proportioned to the publick charges and expences, and that the assembly had well weighed the great charges that there must be of necessity in the maintaining the honour and dignity of the king's authority in the said island; the publick meeting of the sessions; the often attendance of the council; the reparation of the forts; the building of a sessions house and a prison; and all other publick charges incumbent on the government;" by which the said duty seems, in the case of Barbadoes, to have been appropriated, (in the intention of the persons who granted it,) to the maintenance of the civil and military establishment of that island, and not to have been given for the free and absolute disposal of king Charles and his successors in any place and in any manner they should think proper. It is not therefore *quite so evident* in the case of the island of Nevis as in that of Barbadoes, that this duty of four and a half per cent. was intended only for the maintenance

The grant in the island of Nevis does not contain the same clause as is inserted in the act of Barbadoes, which declares the duty to be granted for the purpose of maintaining the king's authority in the island.

tenance of the king's authority in that iſland. But yet, if we conſider that this act of the aſſembly at Nevis was paſſed under the ſame governour, lord Willoughby, of Parham, as the ſaid act of aſſembly at Barbadoes, and the very next year after that act, and, as it were, in imitation of it;---and if we conſider likewiſe how very unlikely it is that the inhabitants of ſo ſmall an iſland as Nevis, and which was then in an infant ſtate of cultivation, ſhould grant money to the Crown for other purpoſes than the maintenance of its own government, when the inhabitants of the much larger and richer iſland of Barbadoes had juſt before declined to do ſo, and had confined the money they had granted, (ſo far as the words of a pre-amble to an act of aſſembly could confine it,) to the maintenance of the king's authority in their iſland;--- it muſt, I imagine, be thought probable, upon the whole, that the members of the aſſembly at Nevis, who made this grant of the four and a half per cent. duty to the Crown, intended it only for the maintenance of the king's government in their iſland, and not for any other purpoſes whatſoever.

Yet it ſeems probable that it was granted only for that purpoſe.

The

Of the grants of the ſaid duty in the iſlands of Saint Chriſtopher, Antigua, and Montſerrat.

The like acts of aſſembly, for granting this duty of four and a half per cent. on goods exported, were paſſed in the iſlands of Saint Chriſtopher, Antigua, and Montſerrat, about the ſame time as the two acts of aſſembly already mentioned in Barbadoes and Nevis, that is, about the year 1663, or 1664. And afterwards a ſecond act of aſſembly was paſſed for the ſame purpoſe in the iſland of Antigua, which was occaſioned by the events of the firſt Dutch war in the reign of Charles II. which begun in the year 1664 againſt Holland and France, and was terminated by the Peace of Breda in 1667. In that war the iſland of Antigua had been taken by the French under the command of Monſieur de La Barre, an officer of the French king, and was given back to king Charles II. by the peace of Breda. By this French conqueſt the Engliſh ſettlers on that iſland loſt all their rights to the lands they had held under the crown of England; and theſe lands became the property of the French king: and afterwards, by the ceſſion of the ſaid iſland made by the French king at the peace in 1667 to the crown of England, the king of England was underſtood to be veſted with the abſolute

It was granted a ſecond time in the iſland of Antigua in the year 1668.

property

property of theſe lands in the ſame manner as the king of France had been after the conqueſt of them and before the ſaid peace of Breda, without any revival of the rights of the former owners of them. In this ſtate of things king Charles II. reſolved to make new grants of the lands of Antigua to their former owners; but, in conſideration of this favour to them, he ſeems to have required the people of that iſland to make, to him and his heirs for ever, a grant of the ſaid duty of four and a half per cent. upon all commodities of the growth of the ſaid iſland, that ſhould be exported from it. And this was accordingly done by an act of aſſembly of the ſaid iſland of Antigua paſſed in the month of May in the year 1768, intitled, "*An act for the ſettlement of the cuſtom, or duty, of four and a half per cent.*," of which the moſt material part is expreſſed in theſe words.

The words of the act of aſſembly of Antigua, by which it was granted in the year 1668.

"*Whereas, by reaſon of the late unhappy war, which aroſe betwixt his royal Majeſty, Charles the ſecond, king of Great-Britain, France, and Ireland, &c. and the moſt Chriſtian king, in France, as well as the States General of the United Netherlands, ſeveral of his Majeſty of Great-Britain's territories on this ſide the Tropic, became ſubject, through*

through conqueſt, unto the ſaid French king and his ſubjects; and, amongſt others, this iſland of Antigua alſo was ſo ſubdued by Monſieur de La Barre, lieutenant-general by ſea and land to the ſaid French king, being aſſiſted by the Cannibal Indians; by means whereof all the lands within this iſland became forfeited unto his Majeſty, &c. as by an act of this country bearing date the tenth day of April laſt paſt, (reference being thereunto had,) may more at large appear: KNOW YE, that, for and in conſideration of new grants and confirmation of our ſaid lands, under the great ſeal appointed for Barbadoes and the reſt of the Caribbee iſlands, by his Excellency Lord Willoughby, of Parham, &c. We do GIVE and GRANT to his ſaid Majeſty, his heirs and ſucceſſors for ever, and moſt humbly deſire your Excellency to accept theſe our grants; And we do humbly pray your Excellency that it may be enacted, AND BE IT ENACTED, by his Excellency Lord Willoughby, of Parham, captain-general and chief governour of Barbadoes and the reſt of the Caribbee iſlands, and by and with the ADVICE and CONSENT of the COUNCIL and gentlemen of THE ASSEMBLY, REPRESENTATIVES of this iſland, and by the authority

thority of the ſame, That an impoſt, or cuſtom, be, from and after the publication hereof, raiſed upon the native commodities of this iſland, after the proportion, and in manner and form, as above ſet down, that is to ſay, upon all commodities of the growth, or production of this iſland, that ſhall be ſhipped off the ſame, ſhall be paid to our ſovereign lord the king, his heirs and ſucceſſors for ever, four and a half in ſpecie for every five-ſcore." This act has ſomewhat the appearance of a bargain made by the people of Antigua with the Crown for a new grant of their lands, inſtead of a proviſion (as in the caſe of Barbadoes,) for the maintenance of the king's authority in it: and conſequently the king ſeems to be more at liberty, (in point of juſtice, and conſiſtently with the intention of the perſons who granted this duty,) to apply the produce of this duty, ariſing in the ſaid iſland of Antigua, to purpoſes foreign to the ſaid iſland, (as, for example, to grant penſions out of it to perſons reſiding in England,) than he is to apply the produce of the ſame duty, ariſing in the iſland of Barbadoes, to the like purpoſes. Yet even in this caſe I conceive it would be a noble act of generoſity in the Crown, if not of juſtice,

A remark on the ſaid act.

It is, upon the whole, fit and reaſonable that in Antigua, as well as the

other Leeward Caribbee iſlands, the ſaid duty of 4½ per cent. ſhould be appropriated to the publick uſes of the people by whom it is paid.

to give up this power of applying the produce of this duty in Antigua in this unlimited manner, and to conſent to its being appropriated for the future to the purpoſes for which it had, probably, been originally granted in the year 1663, or 1664, (before the aforeſaid Dutch and French war, and the ſubſequent conqueſt of the ſaid iſland by the arms of France, and ceſſion of it to the crown of England, which enabled king Charles II. to make the above-mentioned bargain with the inhabitants for new grants of their former lands,) namely, to the maintenance of the king's authority in the ſaid iſland, or the ſupport of the civil and military eſtabliſhments in it.

The ſaid duty of 4½ per cent. was extended to the Frenchpart of the iſland of Saint Chriſtopher by an act of the aſſembly of that iſland in the year 1727.

And in the year 1727 the ſame duty of four and a half per cent. upon goods exported was extended to the French part of the iſland of St. Chriſtopher, which had belonged to the crown of France in the year 1663, (when the act of aſſembly, which granted the ſaid duty to the Crown on goods exported from the other, or Engliſh, part of the ſaid iſland, was paſſed,) and which had been ceded to the crown of Great-Britain by the treaty of Utrecht in 1713.

This

This act of assembly of the island of Saint Christopher, by which the said duty was extended to the French part of the said island, is intitled, "*An act to subject all goods and commodities of the growth and produce of the late French part of the island of St. Christopher, which are, or shall be, shipped off from the said island, to the payment of the four and an half per cent. duty, and to ascertain at what places all the duties of four and a half per cent. shall be received.*" And it is expressed in the following words. "*Whereas, in and by an act or statute of the general council and general assembly of the Leeward Caribbee islands in America, called or known by the names of Nevis, St. Christopher, Antigua, and Montserrat, made in or about the year of our Lord* 1663, *and intitled,* "'An act for settling an impost on the commodities of the growth of the said Leeward Caribbee islands,'" *a certain duty or custom of four pounds and a half in specie for every hundred weight of the commodities of the growth and produce of the said Leeward islands then afterwards to be shipped off from the said islands, or any of them, was given and granted to our late sovereign lord, Charles the second, then king of England, Scotland, France, and*

The words of the said act of assembly.

Ireland, and to his heirs and ſucceſſors for ever; as in and by the ſame act and ſtatute, (relation being thereunto had,) may more fully and at large appear.

And, whereas ſince the making of the ſaid ſtatute, to wit, in and by the late treaty of peace and friendſhip concluded at Utrecht between the two crowns of Great-Britain and France, an entire ceſſion was made by the moſt Chriſtian king, Lewis the fourteenth, to our late ſovereign lady Anne, queen of Great-Britain, France, and Ireland, and to her crown for ever, of all that part of the iſland of Saint Chriſtopher formerly belonging to the crown of France; ſo that the ſame late French part of the ſaid iſland of Saint Chriſtopher is now become parcel of the realm of Great-Britain, and is under the ſole dominion and government of the crown of the ſame.

And, whereas ſome doubts have ariſen, whether the ſaid late French part, ſo yielded up as aforeſaid to the ſaid crown of Great-Britain, be ſubject to the payment of the aforeſaid duties of four and a half per cent. ſo as aforeſaid, in and by the ſaid recited act, given and granted to our ſaid late ſovereign lord, king Charles the ſecond, his heirs and ſucceſſors.

For

For avoiding therefore all disputes and controversies, which may for the future arise within the same island, touching or concerning the payment of the same duties, WE, your Majesty's most dutiful and loyal subjects, John Hart, esquire, your Majesty's Captain-general and GOVERNOUR in chief of all your Majesty's Leeward Caribbee islands in America, and the COUNCIL and ASSEMBLY of the said island of Saint Christopher, do humbly beseech your Majesty that it may be ENACTED and DECLARED; and it is hereby ENACTED and DECLARED by the KING's most excellent Majesty, by and with the advice and consent of the Captain-general and GOVERNOUR in chief of the said Leeward Caribbee islands, in America, and the COUNCIL and ASSEMBLY of the said island of Saint Christopher, and by the authority of the same, That all and singular the goods and commodities of the growth and produce of the said late French part of the said island of Saint Christopher, and which at this time are, or hereafter shall be, shipped off from thence, in order to be carried to any other port or place whatsoever, are, and for ever after shall be, subject and liable; and the same goods and commodities, and every of them,

are

are hereby made ſubject and liable; to the payment of the aforeſaid duties and cuſtoms of four and an half per cent. in ſpecie, to your moſt ſacred Majeſty, your heirs and ſucceſſors, in ſuch manner and ſort as the goods and commodities of the growth and produce of that part of the ſaid iſland known and called by the name of the Engliſh part thereof, have heretofore and hitherto been ſubject and liable unto by force and virtue of the above-recited act or ſtatute."

By this act of the aſſembly of the iſland of St. Chriſtopher the French part of the ſaid iſland is put upon the ſame footing as the Engliſh part of it with reſpect to the payment of the ſaid duty: and it may fairly be ſuppoſed that the duties payable in the French part of this iſland were intended, by the makers of this act of aſſembly, to be applied to the ſame purpoſes as the duties payable in the Engliſh part of it, that is, (as ſeems probable for the ſame reaſons as in the caſe of the iſland of Nevis,) to the maintenance of the king's authority in the ſaid iſland, or the ſupport of the civil and military eſtabliſhments in it. There is therefore the ſame reaſon for appropriating the produce of in the French part of the ſaid iſland of Saint Chriſtopher, appropriated to the publick uſes of the ſaid iſland, as well as of it in the Engliſh part of the ſaid iſland.

It ſeems reaſonable that the produce of theſaid duty ſhould be the produce

of this duty of four and a half per cent., ariſing in this French part of the iſland of St. Chriſtopher, to the ſaid purpoſes, reſpecting the welfare and good government of the ſaid iſland itſelf, as for appropriating the produce of the ſame duty ariſing in the Engliſh part of it, and in the iſlands of Nevis and Montſerrat, to the ſame purpoſes.

Nor ought we on this occaſion to forget the clauſe, which I mentioned to you ſome time ago when we were examining the commiſſions of the governours of the American provinces, concerning the iſſuing and the application of the monies raiſed in the ſaid provinces, which ſeems to be a plain and ſtrong declaration on the part of the Crown, that the monies therein raiſed ſhould not be applied to any purpoſes foreign to the provinces in which they were raiſed reſpectively. This clauſe in the commiſſion of Sir Danvers Oſborne, governour of New-York, was as follows. "*And our further will and pleaſure is, that all publick monies raiſed, or which ſhall be raiſed, by any act to be hereafter made within our ſaid province and other the territories depending thereon, be iſſued out by warrant*

This opinion ſeems to be warranted by the words of the king's commiſſions to his governours in America.

warrant from you, by and with the advice and consent of our council, and disposed of by you for the support of the government, and not otherwise." The like clause is, as I believe, inserted in the commissions of all the other governours, both of North-America and the West-India islands, and therefore probably was inserted in that of Lord Willoughby, of Parham, who was governour of Barbadoes and the islands of Nevis, Antigua, St. Christopher, and Montserrat, in the years 1663, 1664, and 1668, when the three first of the above-mentioned acts of assembly for Barbadoes, Nevis, and the other three islands, and the act of assembly in Antigua after the peace of Breda, were passed, and in that of Mr. John Hart, who was governour of St. Christopher, and the other Leeward Caribbee islands, to wit, Antigua, Nevis, and Montserrat, in the year 1727, when the aforesaid duty of four and a half per cent. was extended to the French part of the said island of St. Christopher. And, if the said clause was inserted in those commissions, (as there seems to be great reason to believe,) it is a plain declaration on the part of the Crown that the produce of this four and a half per cent. duty in

all

all thoſe iſlands was originally intended for the maintenance of the king's authority in them, or the ſupport of the civil and military eſtabliſhments in them, and for no other purpoſes whatſoever, and ought to be iſſued only by warrants of the governours and councils of thoſe iſlands, for the ſaid purpoſes, and not by warrants or orders of the lord treaſurer of England, or of the commiſſioners appointed to execute his office; whatever abuſes may have crept in of late years with reſpect both to the authority by which the produce of this duty has been diſpoſed of, and to the purpoſes to which it has often been applied. Our propoſal therefore to appropriate the produce of this duty in the ſtricteſt manner poſſible to the maintenance of the civil and military eſtabliſhments of the iſlands in which it ariſes, ought not to be conſidered as *an innovation* to the prejudice of the juſt and legal revenue of the Crown, but as a juſt and candid reſtoration of this duty to the purpoſes of its original deſtination.

The produce of the ſaid duty of 4½ per cent. ought not to be iſſued by the warrants of the lords commiſſioners of the Treaſury in England, but only by the warrants of the governours and councils of the provinces in which it is paid.

This is all that I have been able to collect concerning this duty from the account of that famous cauſe of Campbell and Hall, which I

mentioned to have been determined for the plaintiff Campbell, by the court of King's-Bench in England, in the month of November, 1774.

FRENCHMAN.

Your account of this matter has given me much entertainment. And I am more and more convinced of the juſtice and reaſonableneſs of the meaſure you recommend, of appropriating the produce of this duty of four and a half per cent. in all the iſlands in which it is paid, to the maintenance of the government, and other publick uſes, of thoſe iſlands reſpectively. Nor can I, indeed, conceive that any body can entertain a doubt of the propriety of ſuch a meaſure. And certainly no time can be ſo fit for a reformation of the abuſes that have happened upon this ſubject as the preſent conjuncture, when there is an evident neceſſity for re-conſidering and reforming the whole political ſtate of North-America in order to produce the wiſhed-for reconciliation with Great-Britain. But, before we intirely quit this ſubject of the four and a half per cent. duty, I muſt deſire you to inform me whether this duty is paid in the large and rich

rich iſland of Jamaica, and alſo to let me know a little of the ground on which the Crown undertook to impoſe the like duty on the inhabitants of the iſland of Grenada by its own prerogative only, without the intervention of either the parliament of Great-Britain or the aſſembly of the iſland of Grenada. For this ſeems to me to be rather an odd event in the preſent advanced age of the Engliſh conſtitution and liberties, of which I always conceived it to be one of the moſt important that the king could not (as in France and Spain and other abſolute monarchies in Europe,) raiſe money on his ſubjects without their own conſent.

ENGLISHMAN.

I will endeavour to give you the beſt ſatisfaction I am able upon this ſubject, which is a curious and important one, and affords but too juſt grounds for the ſurprize you have expreſſed concerning it.

But, firſt, as to what you aſk concerning Jamaica. You deſire to know, whether this duty of four and a half per cent. upon dead commodities exported, is paid in that large and

The aforesaid duty of 4½ per cent. is not paid in the iſland of Jamaica, nor in thoſe of Anegada and Tortola.

rich iſland. The anſwer is ſhort and eaſy, to wit, that I am well aſſured that this duty is not paid in the iſland of Jamaica, nor yet in two other Britiſh iſlands in the Weſt-Indies, called Anegada and Tortola, ſituated at a ſmall diſtance from St. Chriſtopher's. And it has been confidently aſſerted in print (though I cannot give you certain proof of it,) that, when the Britiſh miniſters of ſtate at one time, in the year 1717, either attempted, or propoſed attempting, to impoſe this duty on the inhabitants of thoſe iſlands by virtue of the royal prerogative, Mr. Lechmere, the attorney-general of that time, (who was afterwards made lord Lechmere,) being conſulted upon the legality of the project, honeſtly replied, "that the perſon who ſhould adviſe his Majeſty to take ſuch a ſtep, would be guilty of high treaſon." This is a curious anecdote, and a proper introduction to the account which I will now endeavour to give you of the late impoſition of the ſame duty on the inhabitants of Grenada by virtue of the royal prerogative in the year 1764.

The opinion of Mr. Lechmere, attorney-general to K. Geo. I. that the king could not impoſe this duty in the ſaid iſlands by his prerogative.

Of the impoſition of this duty in the iſland of Grenada.

The iſland of Grenada was conquered by the Britiſh arms in the year 1762. It ſurrendered (as

(as this province of Quebeck had done two years before,) upon certain articles of capitulation, which were the ſame as had been granted a little before to the inhabitants of the iſland of Martinico, of which the ſixth and ſeventh ſeem to be the moſt material to the ſubject we are now conſidering.

The articles of the capitulation of Grenada, which were the ſame as thoſe of Martinico.

The ſixth article of that capitulation was in theſe words. "*The inhabitants, as alſo the religious orders, of both ſexes, ſhall be maintained in the property of their effects, moveable and immoveable, of what nature ſoever, and ſhall be preſerved in their privileges, rights, honours, and exemptions. Their free negroes and mulattoes ſhall have the entire enjoyment of their liberty.*"

The anſwer of the Britiſh general to this demand was in theſe words. "*Granted, in regard to the religious orders. The inhabitants, being ſubjects of Great-Britain, will enjoy their properties, and the ſame privileges as in the other his Majeſty's Leeward iſlands.*"

The ſeventh article was in theſe words. "*They ſhall not pay to his Majeſty any other duties than thoſe which have been paid hitherto to his*

his moſt Chriſtian Majeſty, and the capitation of negroes upon the ſame footing it is paid at preſent, without any other charges or impoſts. And the expences of juſtice, penſions to curates, and other occaſional expences, ſhall be paid by the domaine of his Britannick Majeſty, as they were by that of his moſt Chriſtian Majeſty."

The anſwer of the Britiſh general to this demand was in theſe words. "*Anſwered in the ſixth article, as to what regards the inhabitants.*"

It muſt alſo be obſerved that, during the ſubjection of the iſland of Grenada to the crown of France, there were certain cuſtoms and impoſt-duties collected upon goods imported into, and exported out of, the ſaid iſland; and likewiſe that a capitation, or poll-tax, was paid to the French king by its inhabitants.

The definitive treaty of peace in February, 1763.

The definitive treaty of peace was concluded in a ſhort time after the ſurrender of Grenada, to wit, on the 10th of February, 1763. By this treaty, art. 9th, this iſland of Grenada was ceded by the king of France to the crown of Great-Britain in full right, with the ſame ſtipulations

lations in favour of the inhabitants of it as are granted in the fourth article of the ſaid treaty to the inhabitants of Canada, that is; that they ſhould retain the poſſeſſion of their property of every kind, moveable and immoveable, if they choſe to continue under the Britiſh government and become ſubjects to the king of Great-Britain, and ſhould have the liberty of ſelling it to any of his Majeſty's ſubjects within the ſpace of eighteen months, and retiring, with the money produced by ſuch ſale, to whatever country they ſhould think proper, if they did not chuſe to live under the Britiſh government; and, further, that they ſhould enjoy the free exerciſe of the worſhip of the Roman-Catholick religion, ſo far as the laws of England, (that is, as the great ſtatute of queen Elizabeth for aboliſhing foreign juriſdiction in ſpiritual matters from all the dominions of the Crown,) will permit.

Ceſſion of the three neutral iſlands called Dominica, Saint Vincent, and Tobago, to the crown of Great-Britain.

By the ſame definitive treaty of peace three out of the four iſlands till then called *the neutral iſlands*, were ceded to the crown of Great-Britain, namely, the iſlands of Dominica, Saint Vincent, and Tobago: and the fourth, (which was Saint Lucia) was ceded to the crown of France.

Very

A royal proclamation under the great ſeal of Great-Britain, for the ſpeedy ſettlement of the iſland of Grenada, the Grenadines, and the ſaid three late neutral iſlands; publiſhed in March, 1763.

Very ſoon after the aforeſaid definitive treaty of peace, namely, on the 26th day of March, 1763, his Majeſty publiſhed a proclamation under the great ſeal of Great-Britain, in which he declared that, having taken into conſideration the great benefit that would ariſe to the commerce of his kingdoms and the intereſt of his ſubjects, from the ſpeedy ſettlement of the iſlands of Grenada, the Grenadines, Dominica, Saint Vincent, and Tobago, he had thought fit, with the advice of his privy council, to iſſue his ſaid royal proclamation, in order to make it known to his loving ſubjects that he had given the neceſſary powers and directions for an immediate ſurvey, and diviſion into proper pariſhes and diſtricts, of ſuch of the ſaid iſlands as had not hitherto been ſo ſurveyed and divided, and for laying out ſuch lands in the ſaid iſlands as were in his Majeſty's power to diſpoſe of, in allotments for plantations of different ſizes and extents, according as the nature of the land ſhould be more or leſs adapted to the growth of ſugar, coffee, cocoa, cotton, or other articles of beneficial culture: after which general declaration of his Majeſty's deſire that the ſaid iſlands ſhould be ſettled and cultivated, the ſaid proclamation

proclamation ſpecifies the particular conditions under which lots of land ſhall be granted by his Majeſty to ſuch perſons as will undertake to cultivate them, but makes no mention of any duty to be paid on the exportation of the commodities that ſhall be produced on them.

The king's proclamation under the great ſeal of Great-Britain in October, 1763, for erecting new civil governments in the countries lately ceded to the crown of Great-Britain.

In the month of October of the ſame year, 1763, was publiſhed his Majeſty's famous proclamation under the great ſeal of Great-Britain, in which he declared it to be his pleaſure to erect four new governments in the territories which had been lately ceded to the crown of Great-Britain; to wit, the governments of Quebeck, Eaſt-Florida, Weſt-Florida, and Grenada. In this proclamation his Majeſty exhorts his ſubjects of Great-Britain and Ireland, and his colonies in America, to reſort to theſe new governments, and ſettle in them, and avail themſelves of the great benefits and advantages which muſt accrue therefrom to their commerce, manufactures, and navigation: and, as an encouragement to them to do ſo, he promiſes them that they ſhall be governed in the ſame manner as the other Engliſh provinces in America, by a governour, council, and aſſembly, as ſoon as the ſituation and circumſtances of the

Promiſe of the Engliſh mode of colony-government by a governour, council, and aſſembly.

ſaid new governments will admit of the calling of ſuch aſſemblies; *and that, in the mean time and until ſuch aſſemblies can be called, all perſons inhabiting in, or reſorting to, the ſaid colonies, may confide in his Majeſty's royal protection for the enjoyment of the benefit of the laws of his realm of England.*

And of the enjoyment of the benefit of the laws of England.

Colonel Melville's commiſſion of governour of Grenada, and the Grenadines, and the iſlands of Dominica, Saint Vincent, and Tobago; in April, 1764.

In purſuance of this proclamation, his Majeſty, in the month of April, 1764, appointed Robert Melville, Eſq; captain-general and governour in chief over the ſaid iſland of Grenada and the Grenadines, together with the three, (formerly neutral) iſlands called Dominica, St. Vincent's, and Tobago, by a commiſſion under the great ſeal of Great-Britain. This commiſſion was nearly of the ſame tenour with thoſe of the governours of Quebeck and New-York and the other royal governments in America, and authorized governour Melville, with the advice and conſent of the council of the ſaid new province, and, as ſoon as the ſituation and circumſtances of the ſaid iſlands would admit thereof, to ſummon and call general aſſemblies of the freeholders and planters of the ſaid iſlands, and, with the advice and conſent of the

It contain'd a grant of a power to call aſſemblies of the freeholders.

the council of the province and ſuch aſſemblies, to make, conſtitute, and ordain, laws, ſtatutes, and ordinances, for the publick peace, welfare, and good government of the ſaid iſlands and the inhabitants thereof, and ſuch other perſons as ſhall reſort thereunto, and for the benefit of the king, his heirs and ſucceſſors.

Governour Melville arrived in the iſland of Grenada, with this commiſſion, in the following month of December, 1764; and, in purſuance of the powers contained in it, he ſummoned a general aſſembly of the freeholders and planters of the iſland, which met in the latter end of the year 1765.

Governour Melville arrives in Grenada with his commiſſion of governour, in December, 1764.

An aſſembly meets about Dec. 1765.

In the month of July, 1764; that is, after the publication of the royal proclamation of October, 1763, (which promiſed the inhabitants of the iſland of Grenada, as well as of Canada and Eaſt and Weſt Florida, the immediate enjoyment of the benefit of the laws of England, and, as ſoon as the circumſtances of thoſe new governments would admit thereof, the Engliſh mode of colony-government by a governour, council and aſſembly,) and after

In July 1764 a royal proclamation is iſſued under the great ſeal of Great-Britain for eſtabliſhing the aforeſaid duty of 4½ per cent. on goods exported from the iſland of Grenada.

the paſſing of governour Melville's commiſſion of governour in chief of that iſland, but before the arrival of it, with the ſaid governour, in the iſland; his Majeſty publiſhed another proclamation for impoſing upon the inhabitants of Grenada, by virtue of his royal prerogative, the ſame duty of four and a half per cent. upon all dead commodities, of the growth of the ſaid iſland, which ſhould be exported from it, that was already paid in the iſland of Barbadoes, and the other iſlands before-mentioned, in conſequence of grants of the aſſemblies of thoſe iſlands. This proclamation was expreſſed in theſe words. " *George the third, by the grace* " *of God, of Great-Britain, France and Ire-* " *land, king, defender of the faith, &c. to all* " *to whom theſe preſents ſhall come, greeting.*

The words of the ſaid proclamation.

" *Whereas a certain impoſt, or cuſtom, of four* " *pounds and an half in ſpecie for every hundred* " *weight of the commodities of the growth and* " *produce of the iſland of Barbadoes, and of the* " *Leeward Caribbee iſlands in America, ſhipped* " *off from the ſame, or any of them, is paid and* " *payable to us, our heirs and ſucceſſors:*

" *And,*

" *And, whereas the iſland of Grenada was*
" *conquered by us during the late war, and has*
" *been ceded and ſecured to us by the late treaty*
" *of peace:*

" *And, whereas it is reaſonable and expedient,*
" *and of importance to our other ſugar iſlands,*
" *that the like duty ſhould take place in our ſaid*
" *iſland of Grenada:*

" *WE HAVE THOUGHT FIT, and our*
" *royal will and pleaſure is; and WE DO*
" *HEREBY, BY VIRTUE OF OUR PRE-*
" *ROGATIVE ROYAL, ORDER, DI-*
" *RECT, and APPOINT, that an impoſt,*
" *or cuſtom, of four and an half per cent. ſhall,*
" *from and after the 29th day of September next*
" *enſuing the date of theſe preſents, be raiſed and*
" *paid to US, OUR HEIRS and SUCCES-*
" *SORS, for and upon all dead commodities of*
" *the growth or produce of our ſaid iſland of*
" *GRENADA, that ſhall be ſhipped off from*
" *the ſame; in lieu of all cuſtoms and impoſt*
" *duties hitherto collected upon goods imported*
" *and exported into and out of the ſaid iſland*
" *under the authority of his moſt Chriſtian Ma-*
" *jeſty:*

Impoſition of the aforeſaid duty of $4\frac{1}{2}$ per cent. upon all dead commodities of the growth of the iſland of Grenada, that ſhall be exported therefrom.

" *jesty: AND that the same shall be collected,*
" *paid, and levied, in such manner, and by*
" *such means, and under such penalties and for-*
" *feitures, as the said impost, or custom, of*
" *four and an half per cent. is, and may now*
" *be, collected, paid, and levied in our said*
" *island of Barbadoes and our said Leeward*
" *islands.*

" *And we do hereby require and command the*
" *present governour or commander in chief, and*
" *the governour or commander in chief for the*
" *time being, and the officers of our customs in*
" *the said island of Grenada, now and hereafter*
" *for the time being, and all others whom it may*
" *concern, that they do, respectively, take care*
" *to collect, levy, and receive, the said impost,*
" *or custom, according to our royal will and*
" *pleasure, signified by these presents.*

Continuation of the poll-tax levied on the inhabitants of Grenada in the time of the French government.

" *And, whereas a poll-tax was levied and*
" *paid by the inhabitants of our said island of*
" *Grenada, whilst it was under subjection to his*
" *most Christian Majesty, IT IS OUR ROYAL*
" *WILL AND PLEASURE THAT such*
" *poll-tax as was levied, collected, and paid by*
" *the inhabitants of the said island, whilst it*

" *was*

" *was under ſubjection to his moſt Chriſtian*
" *Majeſty, ſhall be continued therein during*
" *our royal will and pleaſure; and that the*
" *ſame ſhall be collected, levied, and paid to*
" *us, our heirs and ſucceſſors, at ſuch times*
" *and in ſuch manner, and by ſuch ways and*
" *means, and under ſuch penalties and for-*
" *feitures, and upon ſuch terms, and with ſuch*
" *privileges and exemptions, as the ſame was*
" *collected, levied, and paid whilſt the ſaid*
" *iſland was under ſuch ſubjection to his moſt*
" *Chriſtian Majeſty, inaſmuch as the ſame are*
" *not contrary to the laws of Great-Britain;*
" *and that the account and number of the in-*
" *habitants and ſlaves therein ſhall be, from*
" *time to time, kept, and delivered in, by ſuch*
" *perſon and perſons, and at ſuch time and*
" *times, and under ſuch regulations, ſanctions,*
" *penalties, and forfeitures, reſpectively, as,*
" *and under which, the ſame were taken, kept,*
" *and delivered in, during the time the ſaid*
" *iſland was ſubject to his moſt Chriſtian Ma-*
" *jeſty, as aforeſaid, inaſmuch as the ſame are*
" *not contrary to the laws of Great-Britain.*

" *And WE DO hereby REQUIRE and*
" *COMMAND the preſent governour or com-*
" *mander*

" *mander in chief, and the governour, or com-*
" *mander in chief, for the time being, and the*
" *ſeveral officers of our revenue, now and for*
" *the time being, and all others whom it may*
" *concern, that they do reſpectively take care*
" *to collect, levy, and receive, the money ariſ-*
" *ing, and to ariſe, by the ſaid tax, and to*
" *pay, and account for, the ſame, to the re-*
" *ceiver-general and collector of our caſual*
" *revenue in our ſaid iſland, for the time*
" *being, according to our royal will and plea-*
" *ſure ſignified by theſe preſents.*" This was the tenour of the letters patent by which the king, by his royal prerogative, impoſed the ſaid duty of four and a half per cent. on goods exported, on the inhabitants of Grenada.

FRENCHMAN.

Truly the ſtyle of this inſtrument is very lofty. There is a great deal of *requiring* and *commanding*, and of the *royal will and pleaſure*, in it; which muſt have made the French inhabitants of Grenada recollect the ſtyle of their former ſovereign, who deals much in expreſſions of the ſame kind, ſuch as *Voulons et ordonnons, et il nous plaît*, and *Car tel eſt nôtre bon plaiſir*.

plaiſir. But ſurely this muſt have been very alarming to the Engliſh inhabitants who were lately come to ſettle in that iſland, and who had been accuſtomed to very different notions of royal authority. I ſhould imagine they muſt have been thrown into great conſternation by it. And even the inhabitants of England itſelf had no great reaſon to be pleaſed at ſeeing an attempt of this kind in a country that made a part of the Britiſh dominions, and in which the king had declared by his proclamation of October, 1763, that the inhabitants ſhould be governed by an aſſembly of the people, as ſoon as the circumſtances of the iſland would admit of it, and, in the mean time, ſhould enjoy the benefit of the laws of England. For they might reaſonably apprehend that, what was done at that time in that part of the dominions of the Crown, notwithſtanding the declared right of its inhabitants to be governed according to the laws of England, might one day or other be made uſe of as a precedent for an act of the like nature in England itſelf, or for the impoſition of a new tax on the people without conſent of parliament.

The aforeſaid proclamation muſt have been very alarming to the new Engliſh ſettlers in Grenada.

It ought alſo to have alarmed the inhabitants of Old England itſelf.

ENGLISHMAN.

Yet it was very little attended to in England.

Your remark is very juſt: and, I think, it ought to have been ſo conſidered in England. But I do not hear that it was ſo, but rather, on the contrary, that little, or no, notice was taken of it there. Even the members of the Houſe of Commons who were moſt in oppoſition to the meaſures of government, ſaid nothing about it, though it would, in my opinion, have been a juſter ground of complaint againſt the miniſter of ſtate, who adviſed it, (which was Mr. George Grenville) than any other thing they could alledge againſt him. Nor would it have been at all ſurprizing if the Houſe of Commons had, in conſequence of ſo dangerous a meaſure, addreſſed the king to remove both the miniſter who adviſed it, and the Lord Chancellor, who concurred in it by putting the great ſeal to the above-mentioned letters patent, from his preſence and councils for ever. But the fact is, (which I don't well know how to account for) that nothing of that kind was ſo much as talked of.

It would have been a better foundation for a complaint in parliament againſt the miniſters of ſtate of that time than any other matter that was alledged againſt them.

FRENCH-

FRENCHMAN.

This omiſſion of the Britiſh parliament to take any notice of ſo dangerous an act of royal prerogative, merely, (as it ſhould ſeem,) becauſe it happened out of the narrow limits of their own iſland, ſeems to juſtify, in ſome degree, the deſire of the Americans to be exempt from its authority. For, if the parliament is diſpoſed to exert its authority only for the purpoſe of laying taxes on them, when deſired by the officers of the Crown to do ſo, and not for the purpoſe of procuring taxes to be taken off, when illegally laid upon them by the ſingle authority of the Crown, the Americans will have a right to ſay that the members of the Britiſh parliament have not that fellow-feeling for the condition of their American fellow-ſubjects which is neceſſary to induce them to take proper care of their intereſts, and to qualify them to be the conſtitutional guardians of their liberties. In ſuch a caſe (whatever the law upon this ſubject may have been heretofore) it ſeems to be a matter of neceſſity towards the future good government of the American provinces, either that they ſhould, for the future, ſend repreſentatives

An inference drawn from the inattention of the Britiſh parliament to the injuries done to the people of America.

Either the people of America ought to ſend members to the Britiſh parliament, or the parliament ought to forbear to tax them, and reſign that part of its authority to the American aſſemblies.

ſentatives to the Britiſh parliament, who, it may be hoped, will be more attentive to their intereſts than the Britiſh members, who already ſit there, have, by experience, been found to be, or that they ſhould be left to take care of their own concerns in their own aſſemblies, without any interference of the Britiſh parliament, at leaſt in this important buſineſs of taxation.

ENGLISHMAN.

The Americans reaſon in this manner, and with but too juſt cauſe; ſince, till within theſe twelve or fifteen years, neither the Britiſh parliament nor the miniſters of ſtate in England, ſeemed to take the leaſt concern about the affairs of America, (except as to the regulation of their trade,) any further than as it ſerved the latter as a fund for them to provide for their managers of parliamentary elections, or for their poor relations, or for their companions, who had run out their fortunes in keeping company with them, or for their other favourites, by giving them the offices of governours, or chief juſtices, of the American provinces, or thoſe other more deſireable employments of provoſt-marſhalls and clerks of the councils, ſecretaries,

The miniſters of ſtate in England, till within theſetwelve or fifteen years laſt paſt, have conſidered America in no other view than as a fund to provide for theirfriends and favourites; except as to the regulation of the trade thither.

ſecretaries, regiſters of deeds and patents, and regiſters in Chancery, and the like, which we have already ſpoken of, and which might be executed by deputies in America, who farmed them of their principals in England at conſiderable rents. Theſe are old and juſt complaints of the Americans, and which I therefore wiſh to ſee removed. But, when the produce of the four and a half per cent. duty at Barbadoes, (which was granted, as we have ſeen, for the maintenance of the king's authority in that iſland) was diverted from the purpoſes for which it had been granted, and was given away in penſions to perſons reſiding in England, or ſpent in ſome other manner in England without any regard to the welfare of the people of Barbadoes, in almoſt every reign (as I believe,) ſince the year 1663, in which it was granted, to the preſent time, I do not find that the Britiſh parliament has ever complained of ſuch miſapplication of it. Nor, when the ſame duty was laid on the inhabitants of Grenada by the king's prerogative in the year 1764, (which, as you juſt now obſerved, was a meaſure of ſo very alarming a nature,) did the Britiſh parliament take the leaſt notice of it. And other ſuch

Negligence of the intereſts of Barbadoes by the Britiſh parliament upon the frequent miſapplications of the produce of the 4½ per cent. duty paid in that iſland.

Negligence of the intereſts of the iſland of Grenada by the Britiſh parliament upon the illegal impoſition of the ſaid duty of 4½

per cent by the ſingle authority of the Crown on the inhabitants of the ſaid iſland in the year 1764.

ſuch inſtances might be given of their ſupineneſs and inſenſibility with reſpect to the concerns of America. So that I think you are perfectly well warranted in the concluſion you draw from their negligence, to wit, that they are not, in their preſent condition, worthy of, or fit for, the high truſt of being the guardians of the liberties and intereſts of America, notwithſtanding they may, by the law, (as it has hitherto ſtood,) be intitled to act as ſuch; and, conſequently, that it is now neceſſary that they ſhould either admit repreſentatives from the American provinces to ſit and vote in the Britiſh Houſe of Commons, (with the circumſtance of an annual re-election, to keep them dependant upon their American conſtituents and attentive to their welfare,) or that they ſhould renounce the government of America for the future in the important article of taxation, and leave them to be governed, with reſpect to that ſubject and to their other domeſtick concerns, by their own aſſemblies. However, I will now, if you pleaſe, return to the hiſtory of the four and a half per cent. duty in Grenada, of which you deſired me to relate the particulars.

FRENCH-

FRENCHMAN.

I beg you would. For I long to hear the ſequel of it, and particularly to know upon what ground the officers of the Crown could pretend to juſtify ſo arbitrary a meaſure as the impoſition of a tax on the ſubjects of the crown of Great-Britain by virtue of the royal prerogative only. For, as this was done in the adminiſtration of Mr. George Grenville, (who, by your account, was a very able and diligent miniſter of ſtate, and who had ſtudied the conſtitution of his country and was animated by a zeal for its welfare,) I cannot help ſuſpecting that there muſt have been ſome circumſtance belonging to the iſland of Grenada which diſtinguiſhed it, in his opinion, from the other dominions of the Crown, and made it more immediately ſubject to the power and pleaſure of the Crown. For, ſurely, a miniſter of his character would never have adviſed the king to impoſe a tax, by virtue of his prerogative alone, on the inhabitants of Great-Britain, or even of the old Engliſh provinces of America;—more eſpecially as he was, at that very time, preparing to make uſe of the authority of the Britiſh parliament

Of the grounds on which it is probable that the king's miniſters of ſtate in the year 1764 imagined it to be lawful to impoſe the ſaid duty of 4½ per cent. by the ſingle authority of the Crown.

parliament for the purpoſe of impoſing the ſtamp-duty both on the inhabitants of Grenada and of all the other provinces in America. There is ſome myſtery in this which I do not comprehend, and which I therefore hope you will explain to me.

ENGLISHMAN.

I agree with you in thinking that Mr. Grenville was not a man that would have adviſed the king to lay a tax, by his prerogative only, either on his ſubjects in Great-Britain or on thoſe in the old Engliſh colonies. Indeed it would have been madneſs to attempt it in either of thoſe countries. But, I will even go further, and am willing to believe, that he did not wiſh the king to have ſuch a power, and would not, therefore, have adviſed his Majeſty to aſſume and exerciſe this power in any remote and helpleſs part of the Britiſh dominions, in which he had conceived the conſtitution of the government and the rights of the inhabitants to be the ſame as either in Great-Britain or the old provinces of America, ſo as to form a precedent of the kind you mentioned, which might one day be made uſe of to the prejudice

of

of the liberties of Great-Britain or the ſaid Engliſh provinces. But he conceived, (as I conjecture,) that the impoſition of this duty on the inhabitants of Grenada by the royal prerogative was warranted upon two or three peculiar grounds, which related to that iſland only, and diſtinguiſhed it both from Great-Britain and Ireland and from the old Engliſh provinces of America. Theſe grounds were as follows. 1ſt, The circumſtance of its being a conquered country; which, in Mr. Grenville's opinion, probably, made it liable to be governed by the king's abſolute will and pleaſure. 2dly, The ſtipulation contained in the anſwer to the 6th article of the capitulation, which was in theſe words, "*That the inhabitants, being ſubjects of Great-Britain, will enjoy their properties, and the ſame privileges as in the other his Majeſty's Leeward iſlands;*" from which words Mr. Grenville might, perhaps, think it reaſonable to infer, that the intention of this article of the capitulation was to make the inhabitants of this iſland liable to pay to the Crown the ſame taxes as were paid to it in the other Leeward iſlands, of which this duty of four and a half per cent. upon dead commodities exported, was one.

Conjectures concerning the ſaid grounds.

1ſt, the right of conqueſt.

2dly, the reference to the king's Leeward iſlands in the 6th article of the capitulation.

And, 3dly, thoſe words of the letters patent impoſing this duty of four and a half per cent. which declare the ſaid duty to be impoſed *in lieu of* the duties formerly paid in that iſland upon goods imported into, and exported out of, it, in the time of the French government. This ſuppreſſion of the old French duties gives the impoſition of the new duty the appearance of *an exchange*, and, if the French duties were heavier than this new duty of four and a half per cent., (which is, however, more than I can affirm,) a benefit to the inhabitants of that iſland. Theſe are the reaſons which (as I conjecture) induced Mr. Grenville to adviſe this extraordinary meaſure; which otherwiſe I am utterly at a loſs to account for.

3dly, The ſuppreſſion of the old French duties; which gave to the new duty of 4½ per cent. the appearance of *an exchange*.

FRENCHMAN.

Theſe reaſons have ſomething plauſible in them, but do not ſeem to be ſufficient to juſtify ſo extraordinary a proceeding. For, firſt, as to the anſwer to the ſixth article of the capitulation.——In order to ground the inference you have mentioned, it will be neceſſary to underſtand the words *the ſame privileges as in his Majeſty's Leeward iſlands*, to mean *the ſame burthens*

Remarks on the inſufficiency of the ſaid reaſons.

Inſufficiency of the ſecond reaſon, derived from the reference to the Leeward iſlands in the capitulation.

burthens and taxes, as well as privileges, as are found in thoſe iſlands; which is a harſh, doubtful, unnatural, interpretation of them, and by no means ſufficient to be a ground for exacting a tax from the inhabitants of the new conqueſt. The more natural meaning of theſe words ſeems to be this; "That, as the inhabitants of the Leeward iſlands have the privilege of paying no taxes but ſuch as they have themſelves freely granted to the Crown by their aſſemblies, ſo the inhabitants of Grenada ſhould have the privilege of paying no new taxes but ſuch as they ſhall themſelves freely grant to the Crown by an aſſembly of the ſame nature as thoſe of the Leeward iſlands." This is truly *a privilege*; and a very important one; and therefore muſt be ſuppoſed to have been conveyed to the people of Grenada by the word *privileges* in the capitulation. And it muſt further be obſerved that, if the inhabitants of Grenada had become liable to pay this duty of four and a half per cent. by virtue of this ſixth article of the capitulation, which granted them the privileges of the inhabitants of the Leeward iſlands, they would have become ſo *immediately* upon the conqueſt, in the year 1762, and not

have continued free from it till the year 1764, when it was impoſed by the aforeſaid letters patent. For the proviſions of the capitulation were principally, if not wholly, intended for the ſecurity and benefit of the inhabitants of Grenada during the continuance of the war, and until the final ſettlement of their condition by the treaty of peace, when the iſland would either be reſtored to the crown of France or ceded to the crown of Great-Britain. The treaty of peace made a new and more permanent proviſion for the future condition of the inhabitants who ſhould chuſe to continue in the ceded iſland; which proviſion muſt be ſuppoſed to have ſuperſeded the articles of the capitulation in all points in which it did not expreſsly confirm them. Whatever therefore was not judged to be binding on the inhabitants of that iſland by virtue of the capitulation in the interval between the capitulation and the treaty of peace, while the capitulation was the only inſtrument of authority relating to them, ought not to have been impoſed on them, under pretence of the capitulation, after the concluſion of the treaty of peace, which put an end to the validity of the capitulation,

except

except in thoſe articles which it confirmed, which I do not perceive to have been the caſe with this ſixth article of the capitulation, which mentions the privileges of the Leeward Caribbee iſlands. So that I think this pretence of a ground for impoſing this duty of four and a half per cent. upon the inhabitants of the iſland of Grenada by virtue of the capitulation in 1762, is very weak and inſufficient for the purpoſe. Nor indeed is there the leaſt alluſion to the articles of capitulation in the letters patent, which impoſe this duty, as you have recited them: but they mention only the conqueſt of the iſland and the ceſſion of it to the crown of Great-Britain by the treaty of peace,——and the inconvenience that will accrue to the other ſugar iſlands in the Weſt-Indies, if Grenada ſhould be exempt from the payment of this duty while the king's other ſugar iſlands pay it,——as the grounds for impoſing this duty on the inhabitants of the iſland of Grenada. And then it is ſtated, in the clauſe which impoſes this duty, that it is in lieu of the duties, both of importation and exportation, which uſed to be paid in the time of the French government. So that I am inclined to think

think that Mr. Grenville, or whoever elſe adviſed his Majeſty to lay this duty upon the people of Grenada, did not rely on the ſaid ſixth article of the capitulation as a legal ground for ſuch a meaſure, but reſted it rather on the rights of conqueſt and on the circumſtance of its being a kind of exchange for the duties which had been paid on goods imported and exported in the time of the French government.

ENGLISHMAN.

You may poſſibly be very right in this opinion: and I am inclined to join with you in it. But I was willing to mention every circumſtance that could poſſibly be ſuppoſed to miſlead Mr. Grenville into ſo wrong a meaſure: for as ſuch I muſt ever conſider it; the other two grounds that we have mentioned, that of the right accruing to the Crown by conqueſt, and that of this duty's being laid in lieu of the French duties, being both of them, in my opinion, very far from ſufficient to juſtify it.

FRENCH-

FRENCHMAN.

The latter of these reasons is evidently a very weak one. For, in the first place, the French duties, for which it is insinuated this was an exchange, were already abolished (when this new duty was imposed,) by the abolition of the trade to Old France. It was therefore impossible that this new duty should be an exchange for those old ones, which no longer had any being. And, in the second place, if those French duties had continued to subsist after the peace by a permission, on the part of Great-Britain, to the inhabitants of the island of Grenada to continue to trade to Old France, yet no exchange could have been made of those old duties for any new duty without the consent of the people who were to pay it, unless it were by virtue of the same authority which would have been sufficient to lay any new tax upon them without abolishing the old ones. For every exchange implies the consent of both the parties that make it, in order to its being a real and fair exchange: and no man has a right to take from any other a house,

Insufficiency of the third reason above mentioned, which is derived from a supposition that the new duty of 4½ per cent. is an exchange for the old French duties.

a houſe, or a horſe, or any other part of his property, and to give him ſomething elſe in the lieu of it, without his conſent, even though the thing ſo given in lieu of the former ſhould be of ſuperiour value to it. A forced exchange is therefore either an act of violence and injuſtice or an act of ſuperiority and authority. And all that can be inferred from the abolition of the old French duties paid in the iſland of Grenada, in favour of the impoſition of the new duty of four and a half per cent., is, that it would have been reaſonable, and equitable, and expedient, that the ſaid new duty ſhould be impoſed there *by ſome proper and adequate authority* in lieu of the ſaid French duties that were aboliſhed, but not that the king thereby acquired the right to impoſe the ſaid new duty by virtue of his royal prerogative. The expediency of having a new tax laid on the people for any publick ſervice will never, in any country, veſt a particular magiſtrate with the legal right of impoſing ſuch a tax, if he had not the ſaid right before; but will only juſtify the magiſtrates, or other perſons, who are already poſſeſſed of ſuch a legal right, in exerting it for

for the purpoſe of impoſing ſuch reaſonable tax. So that, in my opinion, the only ground upon which Mr. Grenville could, with any appearance of reaſon, juſtify this meaſure of adviſing the king to impoſe a tax on the people of Grenada by virtue of his royal prerogative only, was the right that might accrue to the Crown, to govern them according to its will and pleaſure, in conſequence of the conqueſt; which indeed ſeems to be the ground principally inſiſted on in the aforeſaid letters patent, by which the ſaid duty was impoſed. How far this ground is ſufficient for this purpoſe I do not know. But I never yet heard that the kings of Great-Britain governed thoſe provinces in America which they had obtained by conqueſt, (as the province of New-York in North-America, and the iſland of Jamaica) in a different manner from their other provinces, which were planted by colonies from Great-Britain. I beg you would therefore inform me what the law of England is underſtood to be upon that ſubject, or what rights the crown of Great-Britain is ſuppoſed to acquire over conquered countries after the final ceſſion of ſuch countries to it by the former ſovereigns of them.

The firſt reaſon above mentioned, to wit, the right of conqueſt, is that which ſeems moſt to be relied on in the royal proclamation by which the ſaid duty of 4½ per cent. is eſtabliſhed.

Of the prerogative of the crown of Great-Britain with reſpect to conquered countries.

ENGLISHMAN.

This inquiry, together with the other matters that remain to be discuſſed on the ſubject of America, muſt be poſtponed to ſome other opportunity.

You are entering upon a curious and important ſubject, on which I will endeavour to give you all the ſatisfaction in my power; though I doubt whether I ſhall be able to ſatisfy you perfectly upon it, becauſe it is a matter that is by no means clear and ſettled amongſt the Engliſh lawyers themſelves. But, as this inquiry will probably run into conſiderable length, and we have already ſpent ſo much time in this political converſation, I muſt beg leave to poſtpone the conſideration of this and the other ſubjects I promiſed to touch upon with you, concerning the expediency of removing the apprehenſions of the North-Americans that biſhops will be eſtabliſhed amongſt them without the conſent of their aſſemblies, and concerning the expediency of amending the conſtitutions of the provincial councils in the ſeveral royal governments, (which are governed only by the king's commiſſions, without a charter,) by increaſing, to at leaſt twice their preſent number, the members of ſuch councils, and appointing them to hold

hold their ſeats in the ſaid councils during their lives or good behaviour, inſtead of the mere pleaſure of the Crown, to ſome other opportunity.

FRENCHMAN.

Well; I am ſorry we are obliged to part, though I muſt needs confeſs it is high time to do ſo, as the day is ſo far ſpent. But I hope we ſhall ſoon meet again, to compleat the diſcuſſion of theſe ſubjects, which have greatly excited my curioſity. In the mean time I am very much obliged to you for the information you have this day given me. So farewell.

THE END OF THE FIRST DIALOGUE.

THE LIBRARY OF THE UNIVERSITY OF CALIFORNIA LOS ANGELES

3 1158 01074 9710

UC SOUTHERN REGIONAL LIBRARY FACILITY

A 000 723 969 2